LEFT AND RIGHT

CONRAD LYNN ON THE MITCHELL CASE

LIBERTY AND THE NEW LEFT

CONSCRIPTION

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LEFT AND RIGHT

A Journal of Libertarian Thought

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EDITORIAL

Fortune and American "Idealism"

Since the days of Woodrow Wilson, American foreign policy has been conducted with a smug and self-righteous hypocrisy perhaps unmatched by any nation in the history of mankind. But recently there have been signs that this may be changing, and that, at least in some areas, a brutal candour may increasingly come to reveal the naked reality beneath the glossy surface. While this will serve the cause of truth, the new frankness is not an unmixed blessing; for it may well mean that our rulers consider us so softened and deadened by decades of propaganda that we will accept any of the naked truth, however harsh, without a murmur of protest or indignation. And the rulers appear to be right.

The first step in the New Frankness was a striking innovation in the theory and practice of war propaganda. Until now, atrocity stories, whether true or manufactured, were always directed against the designated Enemy. But now the United States has pushed atrocities to a more advanced stage; it now publicizes and matter-of-factly releases to the world the news of atrocities for which it is responsible! These are, for example, the numerous pictures, spread around the world, of systematic torture of prisoners by our puppet troops in South Vietnam. As these edifying documents are released and published, no one in America seems to be interested, let alone protest. The acts of torture are accepted as facts of nature, or acts of God, like tornadoes or earthquakes. It was Graham Greene who first pointed out what this flood of pictures implies about the present moral insensitivity of the American people, or of the estimate of that insensitivity by the American rulers.

The latest step in the truth treatment has been the beginning of the acknowledgment, by the American

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Establishment, that the United States is now indeed an imperial nation. A country steeped in anti-colonial traditions, indeed born in a revolution that was the first successful war of national liberation in the history of the world, America has always denied that it could ever become an imperialist power. That could not happen here. But now the Establishment apparently believes that the American people are ready to face the harsh reality that the United States has become the imperial power in the world today.

First it was Henry Fairlie, an astute British observer coming from a country long experienced in Empire, who, in the great organ of the Establishment, the New York Times, gently chided the American people for not waking up to the fact of American imperialism. The Americans, he said in effect, should recognize the reality of imperialism, plan it systematically and openly, and. . . enjoy it. And now Fortune magazine in its August, 1965 issue, endorses the Fairlie article and carries the analysis even further.

The great fuel that powered the United States into its present world Empire, notes the Fortune editorial, was not so much profit or self-interest as "idealism." It was "idealism" that led the United States to enter World War II against Germany and Japan; and it was "idealism" that changed the American course from support of national liberation movements against imperialism to their suppression. Belying its tradition and history of support of national revolutions, the United States, in Fortune's quaint language, "fell heir to the onerous task of policing these shattered colonies." In short, the United States fell heir to West European imperialism.

Yes, writes Fortune in its wisdom, this assumption of world Empire may be at bottom irrational, but Woodrow Wilson and then every president from FDR to LBJ has been propelled by this same "idealism" to assert America's hegemony over the rest of the world. Or, as Fortune revealingly puts it, "the U. S. is the engine of mankind and the rest of the world is the train"--or, rather, the engine of the "free world", since the Communist world has been so ungrateful as to resist the blandishments of American "hauling power." Here it is instructive to note that Harry

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Truman, in his day thoroughly hated by the American Right, is lauded by this organ of the Right-wing of the Establishment for his crucial role in generating American imperialism in the early post-war years. Truman's "place in history grows larger as our perspective lengthens."

Surveying America's world empire from its lofty perch, Fortune considers each world area in turn, looking forward with enthusiasm to many decades of America's "deep involvement in the fate of many nations." In Asia, America must gird its loins for "some fantastic ordeal"; America is "again at war" there, and Fortune makes crystal-clear that it regards our real opponent as China, and believes that a full-scale war with China might happily be in the offing. Vietnam and perhaps China are the "testing ground" of American will and American "idealism". In Europe, notes Fortune, we face an equally prolonged test, one that is "more subtle and sophisticated." Here the "test" is that after America idealistically rebuilt Western Europe, the Europeans have been ungrateful enough to use their new prosperity to repel American business. This is especially true of Gaullist France. But we note with relief that the United States will not have to go to war with France; here U. S. businessmen should stop offending French sensibilities and "adjust their tactics" to mollify these petulant people.

Turning its buzzing searchlight to the south, Fortune reaches the height of its exercise in unconscious buffoonery. Here, the desideratum is how to prevent all further Cubas, but the wise strategists of the American Empire have apparently not yet come up with the requisite wholly-rounded strategy. We "are still groping for a strategy and a style." The rushing of the Marines to Santo Domingo was useful, of course, but America needs moral force in Latin America to offset Communist propaganda. And the Marines in Santo Domingo, "however useful in the urgent circumstances", somehow do not provide the sufficient moral force needed "in building the kind of just and humane order to the south that our idealism conceives." For that kind of just, humane, and idealistic order, the Marines must be supplemented by. . . for example, the Peace Corps, which provides the

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necessary veneer of altruism to American actions. No better confirmation could be found for the Communist charge that the Peace Corps and similar institutions are the sugar-coating for the bitter reality of American world rule.

Fortune concludes its revealing editorial by reminding the naive that all this mess of ideals and justice and humanity can only be imposed by force, and that the American people must pledge their lives, their fortunes, and their sacred honor, forever and ever to this task; and thus meet the "unending test of American idealism."

In a sense, Fortune is right about the role of "idealism". For the State and its rulers could never get away with their depredations were it not for "idealistic" apologia spun by their favored intellectuals. The rhetoric of idealism provides the sophisticated cover for the plunder underneath; and it also spurs the intellectuals themselves to greater heights of despotism. In recent years, an increasing number of writers have begun to dissect the mischievous role played by what Harry Elmer Barnes has aptly termed the "totalitarian liberals" in the promotion of American expansionism and imperialism. These acute analysts include the historian William Appleman Williams and such of his students as James Weinstein, Ronald Radosh and Martin Sklar, and, on the Vietnam war by John McDermott, editor of Viet-Report. Totalitarian liberals have a great urge to "do good to" other people, preferably all over the globe, to plan their lives for them, and, therefore inevitably, to tell them sternly what they must do and force them to do it. All this may be summed up in Isabel Paterson's pungent phrase, "The Humanitarian with the Guillotine." As Mrs. Paterson puts it:

> The humanitarian wishes to be a prime mover in the lives of others. He cannot admit either the divine or the natural order, by which men have the power to help themselves. The humanitarian puts himself in the place of God.
>
> But he is confronted by two awkward facts; first, that the competent do not need his assistance; and second, that the majority of people, if unperverted, positively do not want to be 'done good' by the

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humanitarian. . . Of course, what the humanitarian actually proposes is that he shall do what he thinks is good for everybody. It is at this point that the humanitarian sets up the guillotine.[1]

The innocent people of Vietnam are, day after day, feeling the effects of the deadly "guillotine" blessed by the serried ranks of American "idealism."

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1. Isabel Paterson, The God of the Machine (New York: G. P. Putnam's Sons, 1943), p. 241.

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EDITORIAL

Discovering the Ninth Amendment

Every clause and article of the United States Constitution has been studied, pored over, and interpreted countless times--every one, that is, but the Ninth Amendment, which until very recently, has stood in lonely splendor, unacknowledged, uninterpreted, ignored. And yet, since it is part of the Bill of Rights, one would think it deserving of some attention. The Ninth Amendment states:

> The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

This crucial yet neglected clause says, then, that beyond the specific rights guaranteed in the other clauses and amendments (freedom of speech, press, due process, etc.) there are other rights retained by the people, which the federal government--and state governments--may not infringe.

At the very least, the Ninth Amendment provides explicitly a wide-open door for judicial "activists" to affirm individual rights that government may not violate. Those literalist jurists, who believe that judges must be mere file clerks applying the letter of the law or the Constitution and not straying beyond that letter, are here hoist upon their own petard. For the letter of the Ninth Amendment is an open invitation, indeed a command, to affirm numerous individual rights which the government may not violate: and these are affirmations which only the judges can make.

Instead of exploring and developing the rights guaranteed in the Ninth Amendment, the courts have, until this year, buried it thoroughly as simply a pale

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shadow of the more familiar Tenth Amendment, which states that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." And since the Tenth Amendment had been reduced to a meaningless truism by construing it as saying merely that all powers not granted to the Federal or State governments are reserved to the states or the people, the Ninth Amendment had been implicitly eliminated as well. But the Ninth Amendment does not say that all powers not granted are reserved to the people; it says positively that there are rights which the people do retain beyond the Bill of Rights and which cannot be infringed by anyone, in short by either federal or state governments. What, then, are those rights?

To anyone who understands the terminology of the eighteenth century, it is clear in general what those rights are and what they must be: the natural rights of each individual. And these natural rights in essence mean that every individual has the inherent right to dispose of his person and his property as he sees fit, with no infringement on that right by government. Thus, Justice Oliver Wendell Holmes, when he sneered at the activist judges of his own day for allegedly enshrining the social philosophy of Spencer's Social Statics in the Constitution, did not realize that the last laugh may well be on him: for that is just about what the Ninth Amendment does imply.

But the task of unfolding and applying the unenumerated and inherent natural rights of the individual belongs to the courts; and until this year the courts, having conveniently reduced the Ninth Amendment to a mere repetition of the Tenth, had never bothered to decide a single case on the basis of this Amendment. Here was truly a gross dereliction of judicial duty.

Then, this year, in the important case of Griswold v. Connecticut, the United States Supreme Court confronted the infamous Connecticut law prohibiting the dissemination and use of birth control devices. Here was evidently a monstrous law, a clear-cut invasion of the most intimate and personal area of liberty and action of the individual, an invasion of the most deep-seated right of privacy. But under

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what clause, specifically, could the law be declared unconstitutional? Not under the Fourteenth Amendment, which has done such heavy duty as applying the first eight amendments to state action, for the anti-birth control law does not violate any of those enumerated areas of freedom. In response to this problem, Mr. Justice Douglas and Mr. Justice Goldberg, in one of the monumental advances of constitutional law, discovered the totally forgotten Ninth Amendment, and realized that that Amendment provides for an inherent, and therefore constitutional, right of marital privacy which cannot be invaded by any arm of government.

Bennett B. Patterson, in the only treatise ever written on the Ninth Amendment, eloquently rediscovered and emphasized its meaning as a general declaration of inherent individual rights, and predicted that someday the right of privacy would be acknowledged as such an inherent right.[1] Now the Supreme Court was suddenly ready to make just such an advance.

Mr. Justice Douglas, in his majority opinion, laid down on June 7, 1965, affirmed the existence of an inviolable "zone of privacy" around the individual, a zone that existed as a right of man before the Constitution:

> We deal with a right of privacy older than the Bill of Rights--older than our political parties, older than our school system. Marriage is a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred.

More explicit in resting his decision on the Ninth Amendment was the concurring opinion of Mr. Justice Goldberg, agreed to by Mr. Justice Brennan and Chief Justice Warren. Goldberg affirmed his decision that the Connecticut law "unconstitutionally intrudes upon the right of marital privacy". Resting his deci-

1. Bennett B. Patterson, The Forgotten Ninth Amendment (Indianapolis: Bobbs-Merrill, 1955). For an appreciation of the importance of the Griswold decision in discovering the Ninth Amendment, see James D. Carroll, "The Forgotten Amendment", The Nation (September 6, 1965), pp. 121-122.

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sion largely on the Ninth Amendment, Goldberg continued:

> The concept of liberty protects those personal rights that are fundamental, and is not confined to the specific terms of the Bill of Rights. My conclusion that the concept of liberty is not so restricted and that it embraces the right of marital privacy though that right is not mentioned explicitly in the Constitution is supported both by numerous decisions of the Court. . . and by the language and history of the Ninth Amendment. In reaching the conclusion that the right of marital privacy is protected. . . the Court refers to the Ninth Amendment. . . I add these words to emphasize the relevance of that amendment to the Court's holding. . .
>
> The Ninth Amendment to the Constitution may be regarded by some as a recent discovery, but since 1791 it has been a basic part of the constitution which we are sworn to uphold. To hold that a right so basic and fundamental and so deep-rooted in our society as the right of privacy in marriage may be infringed because that right is not guaranteed in so many words by the first eight amendments to the Constitution is to ignore the Ninth Amendment and to give it no effect whatsoever. Moreover, a judicial construction that this fundamental right is not protected by the Constitution because it is not mentioned in explicit terms by one of the first eight amendments or elsewhere in the Constitution would violate the Ninth Amendment. . .
>
> Rather, as the Ninth Amendment expressly recognizes, there are fundamental personal rights such as this one, which are protected from abridgement by the Government though not specifically mentioned in the Constitution. . .
>
> In sum, I believe that the right of privacy in the marital relation is fundamental and basic--a personal right "retained by the people" within the meaning of the Ninth Amendment. Connecticut cannot constitutionally abridge this fundamental right. . .

In dissent, Mr. Justice Black declared the redis-

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covery of the Ninth Amendment "shocking doctrine", and Mr. Justice Stewart repeated the old canard that the Ninth Amendment simply repeated the meaning of the Tenth. "Until today," wrote the bewildered Stewart, "no member of this court has ever suggested that the Ninth Amendment meant anything else." Correct, but conservatives will simply have to get used to the discovery, at long last, of a highly radical and potentially explosive clause which happens to be part of their cherished original Constitution.

What, then, are the standards that the judges must use in discovering and setting forth the fundamental rights protected by the Ninth Amendment? Mr. Justice Goldberg, in his opinion, finds them in the "traditions and collective conscience of our people" which can determine whether a principle is "so rooted. . . as to be ranked as fundamental." But if these rights are, as the framers intended, natural rights, they are of much broader scope. Indeed, they may be so construed as to restrict government to Mr. Spencer's prescriptions and thus virtually to eliminate governmental power altogether. Thus, Lysander Spooner, the only constitutional lawyer in history who was also an individualist anarchist, wrote as follows of the Ninth Amendment:

> What then, were these "other rights", that had not been "enumerated"; but which were nevertheless "retained by the people"?
>
> Plainly they were men's natural "rights"; for these are the only "rights" that "the people" ever had, or, consequently, that they could "retain."
>
> And as no attempt is made to enumerate all these "other rights". . , and as no exceptions are made of any of them, the necessary, the legal, the inevitable inference is, that they were all "retained"; and that Congress should have no power to violate any of them.
>
> Now, if Congress and the courts had attempted to obey this amendment, as they were constitutionally bound to do, they would soon have found that they had really no lawmaking power whatever left to them; because they would have found that they could make no law at all, of their own invention, that would not violate men's natural rights. [2]

2. Lysander Spooner, A Letter to Grover Cleveland (Boston: B. R. Tucker, 1886), p. 97.

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The Case of David Mitchell Versus The United States

by CONRAD J. LYNN

David H. Mitchell is a young man charged, and now convicted, in Federal Court with failing to report for induction into the armed forces. Refusing to cooperate with the system by becoming an officially recognized conscientious objector, Mitchell decided to turn the court proceedings into an indictment of his accusers, the United States government. Hence, in a profound sense, this was a case of Mitchell versus the United States rather than vice versa. In his brief on behalf of Mitchell, the noted civil libertarian lawyer Conrad Lynn presented an indictment of the United States government on moral, political, legal, and constitutional grounds in the course of defending Mitchell's refusal to make himself part of a war and a foreign policy which he abhors.

David Mitchell was convicted and sentenced to a prison term of eighteen months to five years plus a $5,000 fine; the case is up for appeal, although for various reasons it appears that the appeal will rest on narrower grounds than does the brief.

The essence of Conrad Lynn's brief for Mitchell, omitting some technical legal points, follows below.

●●●

In 1961, shortly after his eighteenth birthday, David H. Mitchell 3rd, the defendant, then a student at Brown University and a resident of New Canaan, Connecticut, registered under the Universal Military Training and Service Act. However, the defendant's subsequent

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developing consciousness of world events resulted in his active protest against the military posture of the United States government. In August 1961, his local board, number 17 in Connecticut, sent him a Classification Questionnaire. Because the defendant was involved in an act of civil disobedience in protest against the construction and deployment of nuclear-armed Polaris submarines, he did not know of this Questionnaire until his release from jail. After considerable reflection, he decided that, for political and moral reasons, he must disaffiliate himself from the conscription system and, as reply to the Questionnaire, so notified local board 17 by letter of October 8, 1961.

The local board responded by sending: 1) a Delinquency Notice (dated October 10, 1961) for failure to return the Questionnaire; 2) a Notice of Classification; 3) a letter (dated October 17, 1961) advising that a "registrant's classification depends upon information supplied by the registrant." Reiterating his disaffiliation, defendant sent a Statement of Selective Service Disaffiliation together with a three-page letter elaborating his reasons, both dated December 3, 1961. There was no response to the defendant from any part of the Selective Service System subsequently. More than two years were to elapse before the Selective Service System was again to contact the defendant.

During that time, the defendant actively maintained his opposition to the draft by helping to initiate and by participating in the End The Draft committee. In its initiating statement, of which the defendant is a signatory, End The Draft states, in part:

> "In the tradition of Thoreau and the principles of Individual Guilt and Individual Responsibility established in the Nuremberg trials and in the first session of the United Nations, we assert the right and obligation of the individual to protest and dissociate himself from these criminal preparations."

The Delinquency Notice for failure to return the Classification Questionnaire was not rescinded nor acted upon nor again referred to by the Selective Service System.

The next correspondence from local board 17, a

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Current Information Questionnaire, was dated January 31, 1964. Use of the questionnaire apparently meant that the defendant's classification was being considered anew although such was not stated. An accompanying notice listed verifying certificates required in areas in which deferment rights are granted. The defendant replied in letter of February 10, 1964 that his position was unchanged. He stated, in part:

> "I realize that I could employ means to gain exemption from induction, but this does not interest me. My purpose is not to be classified quietly within the draft system, but rather to oppose the draft. While classification might suit some sort of individual 'convenience,' my acceptance of classification would be a negation of my social responsibility.
>
> "I oppose the draft, not as something wrong for just me or wrong for only certain people, but as something wrong for the peace and survival of the world. Selective Service is the criminal in this case as can be judged by American militarism throughout the world--from Cuba to Panama to South Vietnam and by our basing of policies on nuclear war. I refuse to cooperate in any way which would support the continuance of such activities. I certainly wouldn't have worked in a Nazi concentration camp just because I would not have to tend the ovens or the gas but could be a guard or a clerk. Rather, as I am doing with the draft and the militarism it contributes to, I would have dissociated from such wrong and worked against it."

In addition, he enclosed the Statement of End The Draft for the Senate Armed Services Committee, dated March 12, 1963, in which they "urge(d) this committee to recommend that the draft extension bill be defeated and, thereby, to accept its responsibility in approaching world peace and the survival of the human race." The defendant received no reply.

Almost two months later, however, he received Order (dated April 2, 1964) to Report for Armed Forces Physical Examination (scheduled for April 28, 1964). True to his position, he did not report. Then, by

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Delinquency Notice of May 4, 1964, he was declared delinquent for failure to report. As with the previous Delinquency Notice, the Selective Service System did not pursue a resolution of the matter in the courts. However, unlike the prior situation, the local board now persisted. By induction order of May 18, 1964, the defendant was ordered to report for induction on June 10, 1964.

The defendant responded by writing an article entitled "Challenge The Draft" and sending a copy of same, as it appeared in downdraft, Vol. I, No. 3, May 1964, to local board 17. His lawyer notified the local board of his retention as counsel for defendant by End The Draft. On June 10, 1964, the defendant did not report for induction.

However, the government did not prosecute. By letter of August 18, 1964, local board 17 notified defendant that his May 4th, 1964 "delinquency status was removed," his "classification reopened and considered anew," and, hence, prepared for a third cycle of attempts to have the defendant acquiesce to selective service procedures.

Bypassing the use of questionnaires, local board 17 sent another Order (dated September 25, 1964) to Report for Armed Forces Physical Examination (scheduled for October 21, 1964). Refusal of defendant to report resulted in a Notice of Delinquency, dated November 10, 1964, which cites November 10, 1964 as the date the defendant became delinquent. There followed an exchange of correspondence between the defendant and local board 17 in which the defendant sought to clarify the sequence of events and in which he bade the local board attend to his counsel's request for copies of all material sent defendant. The local board referred defendant's correspondence to State Headquarters of the Selective Service System in Connecticut. The content of the exchange escalated also as the defendant learned of discrepancies of which he had not otherwise been notified; the defendant challenged the Selective Service System for infringements on his right of defense.

In the midst of this exchange, the local board again sent defendant an Order (dated December 14, 1964)

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to Report for Induction (scheduled for January 11, 1965). Defendant's firm position of individual responsibility against his government's crimes against peace, its crimes against humanity, and its war crimes, again prevented him from obeying this order. His refusal to obey this order is the basis of this indictment. Pursuant to Rule 12 of the Federal Rules of Criminal Procedure, the defendant moves to dismiss.

POINT I

The draft call is constitutionally invalid.

Justification for the draft call cannot simply be found in the text of the Universal Military Training and Service Act. Unless that act conforms to the supreme law of the land it is of no force and effect. Marbury v. Madison, 5 U. S. 137.

While the defendant consistently maintains that it is macabre understatement to characterize murders and atrocities as unconstitutional-he submits that the draft call is in violation of treaties by which the United States is bound. It is also in violation of the peaceful intent of the Constitution:

> ". . . the genius and character of our institutions are peaceful and the power to declare war was not conferred upon Congress for the purpose of aggression or aggrandizement, but to enable the general government to vindicate by arms, if it should become necessary, its own rights and the rights of its citizens." Fleming et al. v. Page, 9 How. 603.

This conscription act has been upheld as within the power of Congress in Gara v. United States, 340 U. S. 857 (1950), by an equally divided court. It must not be overlooked that this decision was made at the beginning of the Korean War. The decision was rendered October 23, 1950. The Korean War began June 25, 1950. It is inconceivable that the court would have divided evenly unless it was troubled by the fact that Congress had not exercised its responsibility to declare war. U. S. Constitution, Article I, Section 8, Clause 11. The justification for bypassing the cited provision was the contention that the security of the United States was placed in desperate peril by the alleged aggression

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of a Communist power, North Korea, against South Korea. However, the United States had occupied South Korea on September 8, 1945 with an army under the command of General John R. Hodges. Prior thereto and after the Japanese surrender in August, 1945, the Korean people by democratic methods set up a provisional government for the whole of Korea. The United States military government proceeded to break up this government and ordered that it be disbanded in South Korea. It was unable to enforce its will in the northern part of Korea in 1945 because troops of the Soviet Union supported the government of Northern Korea.

> "The United States Military Government seized all the former Japanese state and privately owned properties and enterprises constituting the bulk of the wealth of that area. . . This seizure and retention of the bulk of the wealth of the country prevented the rehabilitation of the Korean economy. "The acts of the United States in regard to Korea were in violation of the assurances contained in the Cairo and Potsdam Declarations. They were also in violation of the third Clause of the Atlantic Charter by which the United States assured the people of the world, including the people of Korea, that after the war it would respect the right of all people to choose the form of government under which they would live." Answer, U. S. v Farmer, U. S. District Court, Middle Dist. of Tenn. Civil Action No. 2203 (1956)."

The 1950 Korean action was a direct outgrowth of the announced decision of President Truman (The Truman Doctrine, March 12, 1947) to block by force any revolution anywhere in the world which the United States Government did not like. (See D. F. Fleming, "Cold War and Its Origins," pp. 446-7.) This country was established by armed revolution. The government of France openly supported the American Revolution with its troops and navy. Historically peoples have won their independence throughout the world by armed revolt. The doctrine that the United States executive seeks now to impose upon the world would brand as enemies of civilization those British and other European intellectuals who came to the aid of the Greeks in their fight for independence against the

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Turks in the beginning of the 19th Century. It would condemn to moral obloquy the volunteers who came to the aid of the Spanish Republic when it was being crushed by the twin fascisms of Italy and Germany in the prelude of the Second World War.

The Cold War Doctrine of every President since Truman - the practice of armed unilateral intervention at the whim of the chief executive - has effectively nullified the constitutional provision reserving the power to declare war in the elected congressional representatives of the people. The barbarous war being waged now by the United States forces in Vietnam and the bloody intervention in Santo Domingo are only the latest examples of this legally and morally indefensible policy.

The Selective Service System has become the chief instrument for enabling the government to maintain huge armed forces in being for the implementation of its Cold War practices. It is true that a minority of the men in service are draftees. But the threat of conscription makes many men volunteer in order to complete a term of military service and thus no longer to be eligible for drafting.

> "The blackmail aspects of the draft were bluntly admitted during the 1959 House Armed Services Committee hearings by Assistant Secretary of Defense Charles G. Finucane who stressed the value of the draft as a threat in encouraging enlistments. . .
>
> "We are criminal when we dominate or threaten to dominate small nations, both in terms of the people's right to self-determination (e.g. Cuba, South Vietnam) and in terms of the possibility of guerrilla aggression escalating into nuclear war. "The draft is a basic support for such criminality. It forces our country's people to accept war as a sane, normal function of world relations by making national policy of the military subjugation of our young men and by conditioning them, in the services to the cold war. It allows government manipulation of world tensions by the arbitrary interruption of civilian lives and arbitrary increases in the size of the draft (e.g. President

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Kennedy's sudden draft increase during the Berlin crisis). It is used to give our economy the easy war-preparations way out by turning unemployed youth into soldiers, selecting, equipping, feeding, training, housing them--treating youth as so much grist for the war preparations mill. . ." Statement of End The Draft Committee, "Extension of the Draft and Related Authorities," H. R. 2438 (S. 846), March 12, 1963, pages 72, 73.

By refusing to obey the order for induction from his local draft board David Mitchell acts in the highest tradition of the responsible citizen of a democracy. He is prepared to risk his freedom and his future in an effort to halt the criminal course of the government. He summons all other citizens to join in this life-and-death struggle.

POINT II

The individual must dissociate himself from the war crimes of his government.

The defendant's fundamental concern is with the nature of the summons to military service. The defendant holds that the draft board, as an agent of the United States government, has no right to order him to take up arms and fight in the unjust wars in which this country is now engaged. He realizes that there are a variety of "acceptable" methods for him to get out of serving. But he feels that, while these may serve his convenience, they would not serve his conscience. Instead of neglecting his individual responsibility, the defendant refuses to cooperate with his government's militarism, and he raises a fundamental challenge to United States policies.

The defendant raises the parallel of Hitler's Germany where the Germans submitted to the call for law and order and neglected to take a stand on the criminal content the laws protected. He insists that empty law is the arsenal of criminal rationalization-and that if anything makes law meaningful instead of empty, it is the subordination of law to truth. The defendant reminds the court of that great movie, "Judgment at Nuremberg," in which the criminals on trial were

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judges who had administered laws devoid of all morality, laws which built a protecting shell of technicalities around Nazi crimes. The defendant wonders how convincing he would have been in Germany.

The defendant can cite a history of unjust American laws-from pre-revolutionary American laws through laws of slavery to today's laws which perpetuate the brutalization and oppression of the Negro people and drive the American Indians from their culture and land in a continuing policy of genocide. He asserts that he will have no part in any of this.

While the defendant maintains a selective position toward legality, he maintains a moral position that is uncompromising. As he reminded his draft board by letter of December 3, 1961, he now reminds this court of the words of Henry David Thoreau, who refused to pay taxes for the Mexican War: "It is not desirable to cultivate a respect for the law, so much as for the right."

The defendant holds that the United States stands accused before the world on the very principles which it promulgated in the fight against and in the punishment of fascism. Unlike the non-conscience of the German people under Hitler, the defendant is remaining responsible to moral principles and the principle of individual guilt and responsibility. The defendant maintains that the government has no right to compel him to goose-step to U. S. crimes.

POINT III

The United States is committing crimes against peace.

The accused here is convinced that the United States government, its President, its military chiefs, its Secretary of Defense, its Secretary of State, its chief of the C. I. A. and its chief of the U. S. I. A., have been and are engaged in violations of international law and in war crimes deeply offensive to mankind generally and, in justice, should be brought to trial.

The conduct of the United States in Vietnam is a

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prime case in point. After the Japanese were expelled from the Indo-Chinese peninsula during the Second World War, the French were reinstated in their former colonies with the help of the United States. Ho Chi Minh, leader of the nationalist Vietnamese forces, began a struggle for independence. The French entered into an agreement with the nationalists recognizing their right to territorial integrity which they broke almost as soon as made. The nationalist forces immediately embarked on a long, bitter, bloody fight for independence. The United States government supported the French with billions of dollars in the form of material supplies, war equipment and money. Finally, at Dien Bien Phu, the French were disastrously defeated. Some of their American supporters had recommended the use of the atom bomb as a last desperate expedient, but some semblance of sanity prevailed and the world survived. The French signed a treaty with the Democratic Republic of Vietnam on July 20, 1954. On July 21, 1954, this treaty was endorsed by a declaration of the Geneva Conference consisting of the representatives of Cambodia, the Republic of Vietnam, France, Laos, Communist China, the USSR, the United Kingdom and the United States. At the last moment the United States representative refused to sign. However, he appended a statement for his government at the end of the Final Declaration of Geneva Conference which reads, in part, as follows:

> "The Government of the United States being resolved to devote its efforts to the strengthening of peace in accordance with the principles and purposes of the United Nations takes note of the agreements concluded at Geneva on July 20 and 21, 1954. . . declares with regard to the aforesaid agreements and paragraphs that (i) it will refrain from the threat or the use of force to disturb them, in accordance with Article 2 (4) of the Charter of the United Nations dealing with the obligations of members to refrain in their international relations from the threat or use of force; and (ii) it would view any renewal of the aggression in violation of the aforesaid agreements with grave concern and as seriously threatening international peace and security. . .
>
> "In the case of nations now divided against their

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will, we shall continue to seek to achieve unity through free elections supervised by the United Nations to insure that they are conducted fairly." From full text in "The Minority of One," June 1965, Vol. VII, No. 6 (67), pages 21-25.

Article I of the Geneva Agreement fixed a "provisional military demarcation line" roughly at the 17th parallel, north of which the Peoples Army of Viet-Nam would withdraw and south of it the forces of the French Union. The major purpose was to allow for the orderly withdrawal of the French Army from the Indo-Chinese peninsula. Neither in the Agreement itself or in the Appended Statement of the United States was there any contemplation of a separate nation of South Vietnam. On the contrary, Article 14 of the Agreement states:

"(a) Pending the general elections which will bring about the unification of Viet-Nam, the conduct of civil administration in each regrouping zone shall be in the hands of the party whose forces are to be regrouped there in virtue of the present Agreement."

In fact, the Geneva Conference explicitly programmed general elections for July 1956 to ensure peace and the free expression of national will.

"6. The Conference recognizes that the essential purpose of the agreement relating to Viet-Nam is to settle military questions with a view to ending hostilities and that the military demarcation line is provisional and should not in any way be interpreted as constituting a political or territorial boundary. The Conference expresses its conviction that the execution of the provisions set out in the present declaration and in the agreement on the cessation of hostilities creates the necessary basis for the achievement in the near future of a political settlement in Viet-Nam.

"7. The Conference declares that, so far as Viet-Nam is concerned, the settlement of political problems, effected on the basis of respect for the principles of independence, unity and territorial integrity, shall permit the Viet-Namese people to enjoy the fundamental freedoms, guaranteed by

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democratic institutions established as a result of free general elections by secret ballot. In order to ensure that sufficient progress in the restoration of peace has been made, and that all the necessary conditions obtain for free expression of the national will, general elections shall be held in July 1956, under the supervision of an international commission composed of representatives of the Member States of the International Supervisory Commission, referred to in the agreement on the cessation of hostilities. Consultations will be held on this subject between the competent representative authorities of the two zones from 20 July 1955 onwards." Final Declaration with regard to Geneva Agreement, from full text in "The Minority of One," supra.

The subsequent history of United States involvement in Viet-Nam has been one of continual and ever-broadening violation of the 1954 Geneva Agreement, as well as other commitments to international law (Kellogg-Briand Pact, Atlantic Charter, U. N. Charter). By attempting to impose upon the Viet-Namese a permanent division of their country, the U. S. embarked on a policy of contempt for the principles of independence, unity and territorial integrity. The United States set up SEATO and placed South Viet-Nam under its "protective cover," although South Viet-Nam was not a separate state and was prohibited by the Geneva Agreement from such alliances. With the French we had attempted to bolster the exiled Emperor, Bao Dai, but failing there, the C. I. A. groomed Diem as the next puppet dictator. Diem was supplied with funds and aid from the U. S. as he assumed authoritarian control and refused consultations on elections to unify the whole of Viet-Nam. That the U. S. did not want general elections to ascertain the people's will in Viet-Nam - for fear that ". . . possibly 80% of the population would have voted for Ho Chi Minh" - is admitted by the then President Eisenhower in his book "Mandate for Change."

The determination of successive United States governments to frustrate the will of the Viet-Namese people lies at the heart of all the illegal actions of our governing authorities since that period. In Viet-

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Nam, the government is attempting to subjugate by force a people which has been fighting for independence for more than twenty years against Japan, France and now the United States. As with its previous interventions in China, Korea, the 1954 overthrow of the Guatemala government, etc., the U. S. is acting in the face of the same internal aspirations that it had to admit existed after its failure to dominate the Chinese people:

> "The unfortunate but inescapable fact is that the ominous result of the civil war in China was beyond the control of the United States. Nothing that this country did or could have done within the reasonable limits of its capabilities could have changed that result; nothing that was left undone by this country has contributed to it. It was the product of internal Chinese forces, forces, which this country tried to influence but could not." State Department White Paper on Relations With China, July 30, 1949, page 402.

After the blockage of 1956 elections to reunify Viet-Nam, the U. S. backed Ngo Dinh Diem in his repression of dissidents by what are commonly referred to as "manhunts" throughout South Viet-Nam. As resistance to Diem formed, the U. S. increased its intervention with what were first called "American advisers," who aided in a program of "pacification" of South Viet-Nam by bombing and burning villages and crops, and placing the population in concentration camps. Diem was finally executed by his own followers, and since then South Viet-Nam has gone through no less than ten governments as the U. S. scurries to give some appearance of legality to its open aggression. Even in the face of student and Buddhist protests within the city of Saigon itself during the last two years the United States has increased its intervention by committing to open combat upwards of 150,000 U. S. troops and massive bombing of both the southern and northern parts of Viet-Nam and areas of Laos.

All of this is prohibited by Geneva Agreement prohibitions against the introduction of fresh troops, military personnel, arms and munitions and military bases, specifically emphasizing any ". . . military bases under the control of a foreign state. . ." As if the facts were not enough to show American policy

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as the reimplementation of Nazi Germany's policies of world domination by force, the words of our ruler give emphasis. Johnson stated to American students in February 1965 that he "would like to see them develop as much fanaticism about the U. S. political system as young nazis did about their system during the war." (N. Y. Times, February 6, 1965.) And the latest U. S. imposed rulers in South Viet-Nam give loud voice to such advice by act and word. The newest head of the government in Saigon, Ky, stated, when asked who his heroes were, "I have only one-Hitler." (London Daily Mirror, July 4, 1965. Also see London Sunday Times, January 10, 1965.)

The United States stands nakedly revealed as an imperialist power determined to maintain, at whatever cost, a colonialist outpost on the mainland of Asia. It is clearly guilty, as defined by the Charter of the International Military Charter at Nuremberg, of crimes against peace for ". . . planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances. . ." The obviously immoral and illegal position of this government is emphasized by its refusal to submit the controversy to the United Nations.

Nor is the role of the U. S. in Viet-Nam an isolated example of government-ordered crimes against peace. The sudden dispatch of more than 20,000 marines to the tiny nation of the Dominican Republic this spring demonstrated again the utter contempt our present government has for international law and its own solemn word. This action is reminiscent of the U. S.-sponsored invasion of Cuba in April 1961. Our gunboat diplomacy has long been a loathsome familiarity to Latin Americans.

In Santo Domingo, when the United States was not physically occupying it, a puppet dictator ruled at the behest of this government. After the overthrow of Trujillo a democratic regime was briefly installed by the people. A liberal constitution was adopted in 1963. But the elected President, Juan Bosch, was not pliable enough for powerful financial interests in this country, so a military coup was arranged and Bosch was sent to Puerto Rico in exile.

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A popular uprising broke out this spring and Bosch was summoned home to resume his Presidency, but, just as the revolutionists were about to triumph, President Johnson intervened to "stop communism." There is considerable evidence that the American Ambassador ordered the bombing of the capital city, resulting in the loss of thousands of lives, just before the United States soldiers landed.

American intervention and domination of foreign lands takes place around the world, from Viet-Nam and Santo Domingo to U. S. paid mercenaries in the form of Cuban exile pilots (see N. Y. Times, July 17, 1964, p. 1) and "rescue missions" in the Congo to U. S. sponsored juntas and dictators with their U. S. trained armies and U. S. military missions for counter insurgency. The Johnson Doctrine, which this accused has been ordered to take up arms to support, requires the United States be the final bulwark of reaction everywhere in the world. The defendant is performing a duty in refusing to become a robot in uniform to enforce this savage pax Americana.

POINT IV

United States authorities and their agents are committing war crimes and crimes against humanity.

The Second World War was the second war of annihilation of this century. In extent and intention it dwarfed the First World War. Not only was a nearly successful experiment made in exterminating an entire race of people but the deliberate slaughter of noncombatants in cities was made a deliberate pattern of policy. The Germans began this latter practice at Guernica, Lidice and Coventry. But the United States perfected it in large-scale massacre at Dresden and ignored a proffered Japanese offer of peace to wreak the unprecedented havoc and horror of the atom bomb on Hiroshima and Nagasaki. (See, Gar Alperovitz, "Atomic Diplomacy," 1965.)

Small wonder then that the veterans of this conflict do not hesitate to apply torture, terror and callous slaughter in order to extinguish the spirit of

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self-determination in the Viet-Namese people! Let us note a few examples!

Extensive raids on Viet-Nam peasant villages have been carried out in an effort to "pacify" the villagers by burning crops and homes and forcing the people into government concentration camps in scorched earth operations. Homer Bigart wrote in the March 29, 1962 New York Times concerning such an operation:

> "The government was able to persuade only seventy families to volunteer resettlement. The 135 other families in the half dozen settlements were herded forcibly from their homes. . . Some families were able to carry away beds, tables and benches before their homes were burned. Others had almost nothing but the clothes on the backs. A young woman stood expressionless as she recounted how the troops burned the families' two tons of rice."

New York Herald Tribune Dispatch from Saigon stated on May 23, 1965 that ". . . The marines set crops on fire and burned or dynamited huts in a scorched earth operation."

Jack Langguth writing for the June 6, 1965 edition of the New York Times reported on the results of a raid by United States planes, dropping napalm bombs on Viet-Namese villages: The air force reported that the raid killed 500 Viet Cong guerrillas. But Langguth said:

> "The American contention is that they were Vietcong soldiers. But three out of four patients seeking treatment in a Vietnamese Hospital afterward for burns from napalm, or jellied gasoline, were village women."

Senator Wayne Morse speaking in the United States Senate on June 7, 1965 charged:

> "One who listens to the President. . . would think we were killing no one in North Vietnam. . . If anyone says we can bomb munition centers, bridges, transportation centers, terminal centers and railroad yards and not kill human beings, he is misleading the American people. . . Of course we

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are killing North Vietnamese. We are killing thousands in South Vietnam. . . The Defense Department keeps and publishes all the figures of killings and casualties in the south committed by the Vietcong. But they tell nothing of the South Vietnamese civilians we are killing and maiming with our napalm and our strafing and our artillery. . . The period of this war will not be a proud chapter in their country's history for future American boys and girls to read."

And again speaking on the Senate floor on June 15, 1965, Morse charged:

"It is our power and our money that continue the war in Vietnam. It is our napalm that burns the people of Vietnam and that destroys their meager possessions. I do not know of any weapon, or terror of the Vietcong that has destroyed as much in South Vietnam as U. S. aircraft have destroyed, all in the name of benevolent persuasion."

Even Senator Mansfield, the administration floor leader reports his revulsion at Republican support of the President that "can only amount to an indiscriminate slaughter of Vietnamese by air and naval bombardment-a slaughter of combatants and noncombatants alike, of friend and foe alike." New York Times, July 2, 1965, page 2.

Besides the patterned genocide to carry out a "pacification" program against the Vietnamese, U. S. forces are aiding and abetting a general program of torture in Vietnam:

"According to the Japan Times (May 20) the 'TV camera crew claims it had to work under serious restrictions' as it followed a Saigon marine battalion on combat missions. The resulting footage was edited into three half-hour sections for TV showing on successive Sunday nights. The films documented such extreme barbarism by the Saigon marines that, according to the Japan Times, 'the broadcast film was only a small portion of the entire footage and it was edited to mitigate the degree of brutality shown. One can well imagine what the deleted parts would be like.'" National Guardian, June 12, 1965.

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"This conduct (torture) has been accepted as a matter of course in the United States. May I point out that it is in direct violation of provisions of the 1949 Geneva Prisoner-of-War Convention which has been ratified or adhered to by Vietnam (1953), the USSR (1954), the United States (1955), Communist China (1956), and the Viet Minh (1957), presumably the countries most directly concerned. (Actually by June 1964, 103 countries had agreed to be bound by the Convention.)

"While the 1949 Convention is directed primarily towards the regulation of international warfare and the conflict in Viet Nam is, at least theoretically, a civil war, there is one article of the Convention which relates exclusively to civil wars; and it specifically prohibits, with respect to prisoners of war, 'violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture.'" Howard S. Levie, Colonel U. S. A. (Ret.) and Assoc. Prof of Law, St. Louis University Law School. Quoted in St. Louis Post Dispatch, April 9, 1965.

When Dean Rusk, the Secretary of State was asked by a reporter on television show why the United States forces did not respect the Geneva Convention on the treatment of war prisoners he blandly replied: "But we are not at war!" In other words, not only is the administration absolved from seeking democratic approval of its course by having Congress declare war as its constitutional prerogative, but the absence of a declaration of war enables authorities to resort to medieval tortures and genocide with a clear conscience. (See G. I. A. D. Draper "The Red Cross Conventions," pp. 149-183).

As a result of the horrors of the new scientific savagery the United States is introducing in Vietnam, a new type of real hero is emerging among the Americans. On June 28, 1965, Lieutenant Richard R. Steinke was brought for trial before a Court Martial on Okinawa because he refused an assignment in a Vietnamese village of the type described. Lt. Steinke is an honor graduate of West Point. He had been accepted and trained in the elite Special Forces, an anti-guerrilla group established by

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President Kennedy. On January 31, 1965 in Saigon the Lieutenant declared his disapproval of United States policy and actions in Vietnam and expressed his conviction that the Vietnam war "isn't worth a single American life." He was convicted on June 25, 1965 of having disobeyed orders. To reduce publicity the Army dismissed him from the service. In Steinke's home town of Milwaukee, Wisconsin, his wife, a young daughter and twenty persons staged a spontaneous demonstration on June 26, 1965 in his support at the main post office. (National Guardian, July 3, 1965.)

Germans were tried for crimes such as America commits by its genocide and torture in Vietnam. The U. S. is guilty under the provisions for war crimes and crimes against humanity in the Nuremberg Charter on all counts (IMT Charter):

> "b) War crimes: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or person on the seas, killing of hostages, plunder of public property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity.
>
> c) Crimes against humanity: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated." R. K. Woetzel, "The Nuremberg Trials In International Laws," pp. 274-275.

The defendant, by his challenge to his government, voices an indictment against its leaders for their national arrogance and racial chauvinism. Possibly it is difficult for them to accord to brown, black or yellow people the full status of humanity. They have difficulty identifying with them. Hence, Hiroshima, Nagasaki, Indian and Negro genocide, and the atrocities in Vietnam.

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The accused is asking us all to stop at the brink before it is too late. His moral stand of refusing complicity in his government's atrocities ranks as the highest order of allegiance to humanity. Such an allegiance was plainly lacking in Germany as its population rallied to patriotism-that "last refuge of the scoundrel."

POINT V

The United States violates treaties regarding war and self- determination.

In the section of the United States Constitution which makes it plain that treaties are a part of the supreme law of this land (Article VI, Section 2) the obligation on the part of all government officials to conform to treaties is manifest. A treaty is not in the same category as a mere act of Congress or the law of a state. After the carnage of World War I Justice Oliver Wendell Holmes foresaw the necessity of the national states foreswearing some of their sovereignty in order that the collective body of mankind might survive upon the earth. In writing the opinion of the court in Holland v. Missouri, 252 U. S. 416, he placed treaties on a par with the United States Constitution:

> "Acts of Congress are the Supreme Law of the Land only when made in pursuance of the constitution while treaties are declared to be so when made under the authority of the United States. . ."

Besides being in violation of treaties and assurances concerning self-determination and the use or threat of force, the U. S. is in violation of numerous specific conventions on warfare which form background and amplification for Nuremberg International Law.

The use of poison gas bombs and other chemical substances among civilian populations is banned by the Hague Regulations of 1907, Article 23(A) and (E) and by the Geneva Protocol of 1925 ban of "asphyxiating, poisonous or other gases. . . " By the murder en masse of civilians or of individuals without charge, without trial, and by the wrongful seizure and imprisonment, ill-treatment and tortures of the civilian inhabitants in the areas occupied, U. S. forces have

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broken express provisions of the Hague Regulations of 1907 (Article 46) imposing a duty on the Occupying Power to protect the lives of the inhabitants. The bombardment of undefended towns and villages far from the front and the indiscriminate destruction from the air of non-military objectives are in violation of the accepted Laws and Customs of War and, in particular, the Hague Regulations. Articles 46 and 52 of the Hague Regulations prohibit the deliberate destruction or the confiscation without requisitioning authority and without compensation or receipt of foodstuffs and the private property of civilians not necessary for the forces. The Conventions of 1929 and 1949 concerning the treatment of prisoners of war prohibits humiliating and degrading treatment, mutilation, torture and murder. By violating all of the above, the U. S. is guilty of war crimes as defined by Article 6 of the Charter of the International Military Tribunal of Nuremberg and the Genocide Convention of 1948.

POINT VI

The indictment should be dismissed

It is clear that David Mitchell is not a draft dodger. He does not evade his duty as a citizen. He presses upon the court and, therefore, upon the government, the criminality implicit in the present bloody course of this nation.

For years in correspondence with his local board, Mitchell presented the fundamental issues he has now raised in this challenge to the indictment. While the accused raises many points of constitutionality and legality which have important bearing in exposing the conduct of his government, they are subordinate to the essence of his challenge-the priority of morality over legality.

Even if the atrocities and fascistic domination around the world had been constitutionally authorized, the moral responsibility of the individual to dissociate and challenge would remain. On this point the accused asks the court to fulfill its responsibility to humanity, to refuse to permit the nazification of American courts into mere instruments of national policy, and, so, dismiss the indictment.

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The order for induction is based upon a law which presumes a grave national emergency or actual war. The emergency is unmasked as callous, unprincipled power plays by the executive arm of the government. No declaration of war has been sought from Congress. The government breaks one solemn treaty after another in a determination to become the gendarme of the world. This policy seeks to kill the hopes of all people everywhere in their struggle to be free. It brands the United States as the chief enemy of liberty in the world. In no way can David Mitchell be accused of aiding and abetting the crimes under discussion. The accused has not been charged with a crime, but rather with obstructing crimes. The accuser stands accused!

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Liberty and the New Left

by MURRAY N. ROTHBARD

Within the past year, all the news media--not only the little magazines and journals of opinion, but even the mass magazines and radio-and-television, have devoted a great deal of attention to the phenomenon of the New Left. And deservedly so, for here indeed is a truly new force in American life. Still basically a student movement, but now beginning to bring its new outlook to other groups in the community, the New Left may be said to have emerged with the formation of SNCC (the Student Non-Violent coordinating Committee) in 1960, grown to its present form with the creation of SDS (the Students for a Democratic Society) in 1962, and burst into national consciousness and to critical importance in American political life with the Berkeley Free Speech Movement of late 1964 and the anti-Vietnam war March on Washington of April 17, 1965, led by SDS and aided by M-2-M (the May 2nd Movement). The New Left has accomplished far more, but these are the milestones of its growth. And even though the real upsurge of the New Left may be dated only from the summer and fall of 1964, it has already displaced the Old Left on the ideological spectrum; what is more, it has also clearly taken the place of the briefly-touted Conservative youth groups (YAF and ISI) as the Wave of the Future on campus.

As Harry Elmer Barnes has stressed, we all tend to suffer from a "cultural lag" in our assessment of social institutions; and so few people have grasped the vastness of the gulf between the Old Left and the New, a gulf not simply of esthetics or generational attitudes; and a gulf that has caused enormous bitterness and a hurling of maledictions from the ranks of the Old. The Left has changed greatly, and it is incumbent upon everyone interested in ideology to under-

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stand the change. The present article analyzes the numerous and significant ways in which the change marks a striking and splendid infusion of libertarianism into the ranks of the Left.

Old and New Left

A good way of gauging any change is to consider what had existed before. The Old Left, flourishing in the United States in the 1930's and 40's, may best be summed up as Social Democracy: a Social Democracy permeating all groups from the "liberals" and "official" Social Democrats on the right to the Browderites on the left. Essentially what this means is an accommodation to and admiration for the State, and a willingness to settle down in cozy alliance with Big Business and other power groups to parcel out perquisites and privileges in the mixed economy of welfare-warfare State Monopoly Capitalism. It is commonly asserted that Fabianism and Leninism differ only in method and pace: that the former believes in gradual change and the latter in revolution. But this completely misses the real point: that Fabianism, which is basically Social Democracy, believes in blending into the State apparatus, whereas Leninism believes in its destruction.

As Fabians to the core, Social Democracy gave a pseudo-progressive and idealistic tone to the state monopoly capitalism of the New Deal, comfortably assumed a large portion of power, and eagerly came to give "liberal" and socialist coloration to the Cold War and the Permanent War Economy that prevails in the United States. Old Left historians, previously fond of such mass-supported and libertarian figures as Jefferson and Jackson, as well as such mass movements as the Populists, now found that in the seats of power any mass action whatever might rock the boat: and so they came to hail Hamilton, the Whigs, and indeed all previous American Establishments, as prototypes of the very system that they were now enjoying.

The New Left tends to think of the elder statesmen of the Old as having "sold out" to the Establishment (=the power structure=the ruling classes); but this

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"sellout", while very real, is deeper and more profound than the New Left realizes. For the strident reactionaries and celebrants of the "American dream" of the 1950's and 60's are taking a position logically implied in their supposedly radical golden age of the 1930's. The Old Left, by embracing the State, "sold out" decades ago, and what we are now witnessing is the logical conclusion and final degeneration of this process.

The Social Democratic justification and rationale for this surrender to the State may be summed up as: "representative democracy." As long as everyone is allowed to vote, and the representatives of the majority do rule, the Social Democratic story runs, there is nothing for anyone to worry about: the State is transformed from the evil instrument of exploitation abhorred by classical Marxism and anarchism, into a friendly and beneficent institution responsive to the will of the majority. In their almost stupefying naiveté, the Social Democrats believe that the mere act of pulling down a lever in a ballot box and choosing between two machine candidates, insures the blessings of liberty and democracy to any decisions that the State rulers and the bureaucracy might then make. And this theory of political representative democracy was echoed in the very organizations of the Old Left: typified by a torpid and inactive mass run and manipulated by a handful of oligarchic officials--but officials who were duly elected every few years. The people, then, were consigned by the Old Left to the passive and manipulated role of marking their ballots every once in a while: and within that framework, the State and the bureaucracy were to have carte blanche--especially The President, who in his majesty and his periodic victory at the ballot box was the beau ideal of Social Democracy. Hence, the political emphasis of the Old Left was on central planning of the economy at home, and of "collective security" intervention into everyone's affairs and wars all over the world.

It is no wonder then that, confronted by the spectre of this Leviathan, many people devoted to the liberty of the individual turned to the Right-wing, which seemed to offer a groundwork for saving the individual from this burgeoning morass. But the Right-wing,

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by embracing American militarism and imperialism, as well as police brutality against the Negro people, faced the most vital issues of our time. . . and came out squarely on the side of the State and against the person. The torch of liberty against the Establishment passed therefore to the New Left.

The crucial contribution to both ends and means by the New Left as well as its most direct form of confrontation with the Old Left is the concept of "participatory democracy." In the broadest sense, the idea of "participatory democracy" is profoundly individualist and libertarian: for it means that each individual, even the poorest and the most humble, should have the right to full control over the decisions that affect his own life. Participatory democracy is at the same time, (here again bringing a profoundly new dimension to social thought), a theory of politics and a theory of organization, an approach to political affairs and to the way New Left organizations (or any organizations, for that matter) should function.

In 1949, Sidney Lens, one of the few older leftists who are also active in the New, distinguished between "manipulative" and "participative" democracy; and in 1962, Tom Hayden incorporated the ideal of participatory democracy into the founding Port Huron statement of the Students for a Democratic Society. Lens, in a recent article, has explained some of the differences very well:

> The United States is a democracy, all right, but a manipulative one in which we are excluded by and large from the major decisions in our lives. Participative democracy, on the other hand, means participation in the process of decision-making in all areas of life--economic and social, as well as political. Now if you judge the United States by its own standards of political democracy--that is, the right to put an "X" in a box every four years and to speak and write with a degree of tolerance--then the United States ranks very high in the firmament of democracies. But if you put it to the criteria of participative democracy, it ranks rather low. The area of decision-making is extremely narrow, and while we do have elections

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they are between two parties which stand for much the same thing.[1]

An excellent summary of the relation between the Right and the New Left was contained in a letter to Newsweek by a New Left student:

> The movement (the New Left) has taken up a "right wing" cause which the avowed conservatives have dropped in favor of defending corporations and hunting Communists.
>
> This is the cause of the individual against the world. Most obviously, the activists exhort the individual to fight the world's blatant evils. More subtle, more difficult and in the long run more important, they urge him not to trade his individual freedom for the mass-produced comfort modern society offers so temptingly. Hence, their natural hostility toward the Establishment, middle-class prosperity and Lyndon Johnson's Great Society, and their ideal of decentralized "participatory democracy"--a sort of "states' rights" minus racism. . . Until we're sure just what we must renounce for the affluence of the liberal's welfare state, we desperately need people who will bite the hand that feeds them.[2]

Organization and Tactics

As will be seen, it is impossible to isolate the organizational from the political aspects of the New Left's theory of participatory democracy, because the New Left's ends and means, its members' personal lives and their abstract ideologies, blend and interpenetrate so closely. But let us attempt to turn first to the organizational aspects of participatory democracy, since these have been the most striking and the best developed. As an intra-organizational theory, participatory democracy decrees that there be absolutely no bureaucratic elite, no ruling oligarchy

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1. Sidney Lens, "The New Left and the Establishment," Liberation (September, 1965), p. 9.
2. Letter by Kenneth Winter, Newsweek (June 14, 1965), pp.8-9.

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within the organization: that each member, however new or humble, have his full say and full control over his own actions. One happy indirect consequence of this set-up is that a New Left organization is almost impossible to red-bait. In the so-called "Communist-front" organizations of the 1930's or 1940's, the organization was typically run by a few top officers, with the rank-and-file passively accepting their lead; this, indeed, has always been true of all organizations. But the consequence was that these organizations could easily be red-baited, as it could be assumed that the secretary, the chairman, etc., played a role far beyond their number. But in a New Left organization nobody can maintain that a few men run the show.

But far more important is the creative innovation that all this implies for the theory and practice of organization per se. Here indeed is a breakthrough for organizational work in any sphere of life at any time in history: and it has been carried out in practice in SNCC and SDS (and also by an organization not usually considered New Left: the Women Strike for Peace). Now it is very easy to ridicule this theory of organization and to see its shortcomings; and anyone who has sat through an eight-hour session far into the night in which forty people try to decide what color to paint the walls will emerge calling for a little old-fashioned administrative dictatorship. But this is a wonderful and exhilirating experiment in ways of voluntary social cooperation, and it should not be lightly abandoned. Interestingly enough, explorations in such a truly individualist theory of organization have been carried on by such "right-wing" libertarians as Dr. F. A. Harper of the Institute for Humane Studies; and fascinating experiments in economic management in which workers are transformed into independent and equal entrepreneurs have been carried out by a few business firms over the country. Yet such is the isolation of social thinkers today that the New Left and the other groups are unaware of each other's existence or of their fundamental similarity: a function of the increasing obsolescence of the categories of "right" and "left' in today's world.

The New Left organization, then, bends over backward

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not to manipulate the rank-and-file, to obtain ideas from the ranks, and to gain a genuine consensus and unanimity out of exhaustive (and often exhausting!) discussion. And then, at the polar opposite from any exaction of party discipline, each individual participates only in those projects which he personally finds important or worthwhile. Here is a monumental contribution to the age-old problem of reconciling organization with the maximum independence and fulfillment of the individual.

The tactics of a New Left organization, tactics from which emerges its characteristic life-style, again mesh with the theory of participatory democracy. A New Left organization spurns the typically Old Left tactic (or any tactic of old organization, for that matter) of quiet lobbying in the back halls of the Establishment's sources of power. In the New Left, every member wants to participate fully in advancing his goals, participate personally and completely, thus integrating his way of life with his abstract goals. Hence the stress of the New Left on direct action by the membership, direct action in the streets.

Since the New Left is truly radical, totally opposed to the Establishment, its characteristic tactic of direct action has taken the form of mass civil disobedience. Here again is a relatively new tactic on the American scene, especially as a continuing organizational way of life. Beginning with the SNCC sit-ins in 1960, civil disobedience has, for the first time, brought mass non-violent resistance to the American scene. While its use as a mass tactic was fathered by Gandhi, the originator of the concept was the American Henry Thoreau, and hence Professor Staughton Lynd, the brilliant young historian who is probably the most prominent intellectual on the New Left, has called Thoreau the New Left's single most important inspiration from the American past.

Now Thoreau was at least a quasi-anarchist, and mass civil disobedience is, purely and simply, an anarchist tactic. Hence, while the Old Left has grudgingly accepted the civil disobedience of the Martin Luther Kings, it basically looks with horror

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upon the entire concept, for at the root of it is the total breakdown of the mystique of The Law that permeates both the Right and Old Left alike. These apologists of the State say, time and time again, that if we don't like a law, or consider it unjust, we must never, never (except perhaps in an outright dictatorship) break that law; we must only go through accepted (manipulatively) democratic (i.e. governmental) channels to get the law peacefully, quietly, and discreetly changed. Break this process, say they, and the majesty of the law is ruptured, and who knows what anarchy may follow. Never mind that laws are being broken all the time (some broken so habitually that even the Right and the Old Left don't take them seriously even though officially on the books), and that the infamy of Prohibition was smashed precisely by people going about their daily lives thumbing their noses at the law--until it became crystal-clear that the law could not be enforced. The civil rights movement, after decades of going hat-in-hand to the law through the democratic process, had accomplished very little; and it was only when the civil rights movement went noisily into the streets to confront the State directly and to defy the vicious segregation laws that these laws finally collapsed. In short, it was only when the civil rights movement shifted from Old Left to New Left that it was able to break down the oppression of the white power structure.

The New Left learned many lessons from this experience. It learned that, morally, the "democratic" argument was a sham: that unjust laws deserve to be broken. And it learned that, strategically, the structure of unjust laws can only be smashed when determined men, even if they be a minority, take to the streets eager and willing to defy them. The New Left has learned the hard way the importance of the old revolutionary slogan: "fill the jails!" It learned that intensity of commitment and willingness to act on that commitment is far more important, morally and strategically, than the mere passive willingness to toddle down to the ballot box and mark an "X" every few years. To be blunt about it, the New Left is a movement of heroes.

If, then, the Old Left looked for its inspiration to Franklin D. Roosevelt, the New looks to Thoreau;

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and this is particularly ironic when we consider that in the years after World War II the main advocate of Thoreau's ideas in this country was the "right-wing" libertarian Frank Chodorov, in his sparkling little broadsheet analysis: an instructive example indeed of the way in which libertarian ideals have unconsciously passed from Old Right to New Left. (It need hardly be added that the present-day Right looks upon Thoreau with total abhorrence.)

If, then, the New Left is radical, individualistic, and militant, what is the content of its ideology, what policies does it advocate? Here it is true that the New Left has not worked out a systematic ideology, a coherent vision of the society it wishes to bring into being. And here it is the despair of the various youth groups whose tight-knit ideologies they would like to impose upon the New Left. But this lack of a totally developed ideology is perfectly understandable: this is a movement new, young, groping, learning; and, furthermore, this looseness is even an advantage, for the result has been a healthy refusal to worry about all the old squabbles, about who betrayed whom in 1938, etc. that have chronically plagued radical movements in this country. This looseness of ideology, combined with the individualistic ideals of the New Left, have led--to the despair of many of the old cliques--to its absolute refusal to bait: red-bait, brown-bait, or any other type of baiting. The New Left cheerfully accepts and works with anyone who shares its specific goals, and wishes to join in its activities, and so engages in no internal purges, witch-hunts, or loyalty testing. Hence the free and open atmosphere that tends to pervade the New Left.

But the New Left is not nearly as devoid of ideology as many observers believe. On the contrary, it knows precisely what it doesn't like, what it totally opposes in our present society, even if its vision of the ultimate future is a bit cloudy. It can work devotedly for shorter or middle-run goals because its members are pervaded with a moral passion with which existing social and political institutions are gauged and found wanting. After generations of inculcation of the virus of positivism and utilitarianism, a virus that helped atrophy the moral fervor of each successive genera-

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tion, it is magnificent to see morality once again used to pass swift and final judgment upon American institutions. This is a moral fervor that insists on "Freedom--Now", sweeps aside the so-called "practical" objections of the tired, the resigned, and the comfortably adjusted, and dares boldly to bring its ideals into practice. The great Lord Acton saw unerringly that to take morality seriously is to be truly revolutionary, to install "a revolution in permanence." And the "kids" of the New Left (for this is an overwhelmingly youthful movement) do take morality seriously.

The most important clue to New Left ideology is characteristically at the same time contentual and strategic (and also determined by the ideal of participatory democracy): the creation of "parallel institutions." In short, while the typical Old Left goal is to move into the seats of State power, and maneuver the State into piecemeal "reforms" to be imposed upon the public from above, the New Left scorns statism and social reformism and aims to stimulate the people themselves to build "parallel institutions" outside of, and confronting, the State apparatus. Staughton Lynd, the leading theorist of the parallel-institution way, has pointed out that the American Revolution occurred precisely by the people spontaneously and voluntarily creating local and then regional committees and assemblies totally apart from the State apparatus, and progressively taking on more and more of the State's functions. He might have pointed to Pennsylvania as a particularly good example of this process: for here the existing assembly was particularly reactionary and reluctant to declare independence of Great Britain, and so the radicals proceeded to create a network of committees and assemblies that simply ignored the old assembly, and the older legislature literally withered away from lack of popular support or even attention. Another outstanding example of parallel institutions and its corollary, "dual power", emerged in the Russian Revolution of 1917, in the form of the workers', peasants', and soldiers' soviets.

Let us now turn to specific areas in which the New Left has provided a highly libertarian thrust through the use of a pure and radical morality com-

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bined with a search for creating positive parallel institutions in society.

The Negro Question

Civil rights furnished the baptism of the New Left, and this has been a particularly fruitful area for demonstrating New Left ideology, tactics, and strategy.[3] The Old Left civil rights movement was typically discreet, reformist, statist, embodied in the NAACP. Racially, its goal was integration, economically it advocated typical statist reform measures: government intervention in housing, federal aid to education, federal anti-poverty programs. Its method was to lobby the federal government, and enter cases in the federal courts.

The New Left has been activist, militant, stressing mass civil disobedience by the membership. The focus of attention in civil rights has been those matters that can be treated by mass demonstrations: segregation laws, restrictions on the right of the Negro to vote, all-pervasive police brutality. The focus on police brutality, importantly enough, is precisely the major concern of all the poorer classes of Negroes, in the South and in the ghettoes of the North and West. Indeed, it should be evident that the Negro uprisings of 1964 and the Watts insurrection of 1965 were directed, not against the usual Old Left shibboleths of poor housing, lack of playgrounds, or discrimination at lunch-counters: they were directed, almost exclusively, at systematic police brutality against the Negro in this country. A newspaper reporter thus described the well-springs of the retaliatory violence by the Negro workers of Birmingham--in retaliation for white bombings--that led President Kennedy to rush Federal troops to that city in May, 1963:

> They (the poorer Negroes) have known only two kinds of white men--the boss and the cop. The boss is none too good. . . But the cop is much

3. For a history of the Negro movement in the South, see Anne Braden, "The Southern Freedom Movement in Perspective," Monthly Review (July-August, 1965).

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worse. The cop accosts them at any hour and arrests them on any pretext.

In every town there's gossip of what cops do in the back room. There was no need for a back-room in Birmingham. The cops often beat Negroes senseless in full public view on the street. . .

They had always cowered before the cops and held back their hatred--to protect their skulls. But suddenly, without forewarning, for they had been in no church rallies and ridden in no freedom rides, they saw Negroes defying the hated cop.

So, the non-privileged decided to make it a fight of their own. . . [4]

Thus, by focussing on areas in which the white-run State oppresses the Negro people, the New Left has transformed the Negro movement from a basically statist into a basically libertarian movement--and by doing so, has come much more into alignment with the central aims and desires of the Negro masses themselves. The New Left can well understand the key role for the Negro people of the issue of police brutality; for, in its own confrontations with the State, it too has felt at least a taste of what the Negro masses have been experiencing all their lives.

Similarly in economics: for here too the New Left has broken through the old Liberal shibboleths. The New Left, for example, believes that urban renewal, far from being a progressive measure benefitting the people, is a program of forced Negro removal for the benefit of favored real estate and construction interests. It recognizes that the federal anti-poverty program is a sham and a fraud, and a bureaucratic top-down manipulation of the Negro masses by the politicians and government officialdom. In contrast, the New Left has acted with the highest constructiveness on these issues, and has gone deep into the poorest Negro communities, has lived for many months as vital parts of these communities, and has stimulated these often disorganized and apathetic people into community organizations and "community unions" stressing self-help by the impoverished Negroes themselves. In the North, SDS has, in the past

4. The New York Post, May 13, 1963.

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year and a half, gone deeply into the poorest of the Negro ghetto areas (e.g., Newark, Cleveland) and used the utmost humility and patience in participatory democracy to build self-help organizations and community unions. In the South, SNCC has done a phenomenal job in stimulating self-help and right-to-vote drives among the most depressed rural Negro communities, especially in Mississippi. A parallel institution in the political realm was launched by SNCC in the form of a Freedom Democratic Party of Mississippi, which may well serve as a model for Freedom Parties in other states and regions. The New Left established Freedom Schools in Mississippi in the summer of 1964, headed by Staughton Lynd, to provide, in a participatorily democratic way, education for impoverished Negroes which would not or could not be provided by the State apparatus. Here was another, and highly useful, form of parallel institution.

The New Left, furthermore, has cast off the uncritical adulation of the Old toward labor unionism. Instead of looking invariably to unions as the vanguard of progress, the New Left sees clearly that labor unions have constituted some of the most restrictive and monopolistic forces in American society. And toward Negroes, trade unions have been more restrictive and discriminatory than has any other segment of American life.[5] Hence the formation by SNCC in Mississippi of another important parallel institution: the Mississippi Freedom Labor Union for enrolling Negro workers.

Peace and United States Imperialism

A measure of the enormous impact of the New Left is the way that it has swiftly and radically transformed the American peace movement. Before 1964-65, the American peace movement was almost classically Old Left: torpid, superficial, manipulative, hat-in-hand.

5. For an important example of New Left scholarship in revealing the racist history of American trade unionism, see Herbert Hill, "Racial Practices of Organized Labor," New Politics (Spring, 1965), pp.26-46.

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Typical was the leading American peace organization, the Committee for a Sane Nuclear Policy (SANE). Trying desperately for respectability, SANE's typical stance was to address letters or advertisements to the President, of the: "please Mr. President, follow your true instincts and be a little more peaceful" variety. Above all, the impetus of SANE was in no sense any moral revulsion at American war policies or against Americans pushing smaller nations around; it was solely a matter of protecting American citizens from potential nuclear holocaust. In short, peace was desired in the abstract while there was an absolute refusal to dig into the question of who the major enemies of peace are, or where the drive for war is coming from in the present world. Indeed, any attempt to pin responsibility upon American imperialism for the Cold War or for other American wars was immediately labelled "double standard". And, as Sidney Lens has pointed out, since "third campism" inevitably becomes "one-and-a half campism", SANE-type peace people inevitably wound up as only slightly reluctant supporters of basic American foreign policy, in short of United States global militarism and imperialism.

The same indeed is true of the small, old-line pacifist organizations (e.g. Committee for Non-Violent Action, War Resisters League, Fellowship of Reconciliation); while willing to bear personal witness for peace (peace walks, strapping themselves to Polaris submarines, etc.) these pacifists, by being aggressively "third-camp", failed to engage in any sort of realistic or knowledgeable analyses of the cause of international crises. Hence, these pacifists remained almost completely irrelevant to the American ideological scene. This total irrelevance was multiplied by the refusal of the old-line pacifists to make any moral distinctions between the use of defensive and of offensive violence. Even the old-line pacifists' long-standing opposition to conscription was at bottom weak: for they object not so much to conscription per se as slavery, nor to the imperialist wars in which the conscripts must serve, but only to conscription's personal coercion to kill. As a result, the old-line pacifists tend to be satisfied with the present conscription system which exempts them as conscientious objectors from having to kill anyone.

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As Robert J. Smith has pointed out, in conscription these pacifists object only to killing; they do not really object to their own enslavement (e.g. CO camps).

The accelerating slide of SANE and other Old Left peace groups into superficiality led them by 1963 to exclusive concentration upon the need for a test-ban treaty to keep Strontium-90 out of children's milk. It was this kind of lowest-level issue that mobilized the suburban mothers and on which the peace movement became fixated; and hence the test-ban treaty of 1963, as the Chinese Communists gloomily and accurately predicted, pulverized and liquidated the peace movement in the United States. The suburban mothers happily returned to their PTA meetings, convinced that the millenium had arrived, and the peace movement came de facto to an end. But not only the mothers: at a Scientists for Survival conference in New York in the summer of 1964, the prevailing opinion of the assembled scholars and professors was that the hoped for detente with the Soviets had arrived, that the Cold War was really at an end, and that therefore there was really nothing further to worry about. This monumental and widespread inanity stemmed, again, from a general scholarly refusal to probe into the causes of war in the present-day world, and specifically to investigate the nature of United States imperialism.

From this total bankruptcy of the American peace movement, there began to emerge a truly radical, New Left-type of movement, devoted characteristically to opposition to war and conscription through resistance to American imperialism. Characteristically again, this new movement was a youth, a student movement, as have been virtually all activities of the New Left. In the spring of 1964, the May 2nd Movement was formed, dedicated specifically to opposition to the American war in Vietnam, and more generally to the etiology of that war in American imperialism; here, in short, was a radical anti-imperialist student movement that did not consider its function that of advising the State Department how best to preserve the American presence in Vietnam. It considered its function that of taking a moral stand in opposition to the whole American involvement, past, present, and future. In early 1965,

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when the U. S. began its systematic, brutal and totally indefensible bombing of North Vietnam, the far larger SDS perceived the moral issue and was at last galvanized into action against American imperialist foreign policy. Taking its cue from the 1963 March on Washington for civil rights, SDS held a highly successful anti-Vietnam War March on Washington in April, 1965, despite massive Old Left hostility, and based on the New Left principle of "non-exclusion", of welcoming all those opposed to the war. And then, miracle of miracles, the shining example of this eager mass of students activated even the comfortably torpid American professoriat, and there swept the country in the late spring that remarkable new phenomenon--the teach-in. Inspired by the militant direct-action "ins" of the New Left, the teach-in created, if only for a single night at each locale a much-needed parallel institution in academe, a true community of scholars in which faculty and students alike could educate each other meaningfully and in depth on a truly vital issue of the day.

Of course, the teach-in had its weaknesses, stemming from its failure to be New Left enough, i.e., to be fully moral. Faculty experts could not resist the temptation to play State Department adviser, to indulge in realpolitik. And yet, as so often happens, the moral position turned out to be far more practical and "realistic" than the supposed practicality of those whom C. Wright Mills brilliantly called "the crackpot realists." For the New Left student position was and is simply: immediate U. S. withdrawal from Vietnam. This position is moral, simple, and irrefutable by expertise or by Administration razzle-dazzle. But the supposedly "practical" position dominant at the teach-ins: "negotiation to end the war", immediately and inevitably became entangled in superior Administration expertise. For, after all, President Johnson only needed to assure everyone that he was negotiating and was willing to negotiate, and then how could anyone say him nay? The only practical position for the peace movement is to forget about procedural matters (e.g. negotiations) and simply demand of the Administration concrete results, i. e. immediate withdrawal. Given this demand, the detailed procedure may be left to the President.

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The measure of the gulf between Old and New Left is their vividly contrasting responses to the war in Vietnam and to America's previous imperialist war, in Korea. Korea effectively liquidated the Old Left as a force for peace; for almost to a man, and awe-struck by the imprimatur of the absurdly venerated United Nations, the Old Left rushed to endorse America's intervention in Korea.[6] In contrast, the New Left was galvanized by America's escalation of the conflict into far more vigorous anti-war activity, an activity particularly remarkable because it is courageously taking place during a war, not merely before or after.[7] Indeed, opposition to the Vietnam War has now become the central focus of New Left

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6. For a chronicle of the rush to support the Korean War by such leaders of the Progressive Party as Henry A. Wallace, Thomas I. Emerson, and Corliss Lamont, see Karl M. Schmidt, Henry A. Wallace: Quixotic Crusade, 1948 (Syracuse: Syracuse University Press, 1960), pp. 303-309. On the attitude of the Nation and New Republic on the Korean conflict, see Leonard P. Liggio, "Why the Futile Crusade?" LEFT AND RIGHT (Spring, 1965), pp.53-58.
7. The Old Right could be capitulationist too; thus, after Pearl Harbor, and over the objection of the great majority of its militants, the America First Committee hastened to dissolve and rush ingloriously to proclaim its super-patriotism. The national committee majority of America First trumpeted before dissolving:

   "Our principles were right. Had they been followed, war could have been avoided. No good purpose can now be served by considering what might have been. . .We are at war. Today. . .the primary objective is. . .victory.

   The period of democratic debate on the issue of entering the war is over; the time for military action is here. Therefore, the America First Committee has determined immediately to cease all functions and to dissolve. . .And finally, it urges all those who have followed its lead to give their full support to the war effort of the nation. . ."
   In Wayne S. Cole, America First (Madison: University of Wisconsin Press, 1953), p. 195.

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concerns. It was largely in connection with the Vietnam war that Staughton Lynd, in a brilliant article, advanced the idea of parallel institutions to oppose the war, as against the Old Left strategy of reformist coalition within established channels of the Democratic Party, a coalition that Lynd trenchantly referred to as "coalition with the marines."[8] Specifically, Lynd called for a new Continental Congress of the people, to set against an American Congress that fails to represent the opposition to the war, as well as for professorial foreign policy committees to hold hearings on the war; furthermore, "men of spiritual authority from all the world might be convened as a parallel Supreme Court, to assess guilt and responsibility for the horror of Vietnam." The Assembly of Unrepresented People that met around the Washington Monument this August was a response to that call; certainly too quixotic and premature to be a genuine Continental Congress, it did at least result in an SDS-oriented National Coordinating Committee of grass-roots groups that oppose the Vietnam war.

At a conference of radical scholars in September, 1965, Staughton Lynd advanced the view that the revolutionary crisis situation in the United States would come, not as in classical Marxism from economic depression, but from being increasingly bogged down in imperialist wars. It was indeed defeat or stalemate in imperialist war that led directly to the Paris Commune of 1871, the Russian Revolutions of 1905 and 1917, and to the Chinese Revolution of the 1940's.

Education

Since the bulk of the New Left are students, perhaps the most dramatic manifestation of New Left activity has been the campus revolution, notably the Berkeley Free Speech Movement of the fall and winter of 1964-65, and the numerous student protests throughout the country that resulted from Berkeley. While

8. Staughton Lynd, "Coalition Politics or Nonviolent Revolution?" Liberation (June-July, 1965), pp. 18-21.

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free speech was the immediate issue, an issue that mobilized student support throughout the whole ideological spectrum from Maoists on the Left to Goldwaterites on the Right, the young militants at Berkeley realized from the beginning that far more was at stake: that what was needed was a revolution in the entire educational system in this country.

For what the youth at Berkeley were rebelling against was precisely the system of mass education in the United States, a system that herds increasing masses of young men and women into college to train them in uniformity and conformity, and to take their due and uncomplaining places in the gigantic military-industrial complex. It was this massive impersonal bureaucracy, this grinding "machine", that the Berkeley students realized was the pernicious microcosm of American society as a whole. The Berkeley students concluded that only by direct confrontation, only by radical civil disobedience against the machine, could any autonomy be won in their personal lives or any area be carved out for a truly educational process.

It is ironically appropriate that the Berkeley uprising came at a university whose mammoth bureaucracy reflected the apogee of the educational theories of its President, Clark Kerr; and that President Kerr is the very model of a modern Liberal, an economist whose experience has been in labor arbitration and whose view of education is precisely as a vast factory to process the students to fit into the military-industrial complex. Kerr's viewpoint is that of the Liberal who frankly accepts statism and giant bureaucracy as the literal "Wave of the Future"; the task of the university, or "multiversity", is to service State capitalism by supplying it with its experts and technicians; and all of this is to be accomplished largely by the university administrators, Kerr's enthusiastically embraced "Captains of the Bureaucracy." In what might only be called the apotheosis of social fascism, Clark Kerr calls on everyone to welcome what he himself terms the "new slavery", headed by the bureaucrats and the managers: "Turning Marx on his head (as James Burnham had done a generation earlier in The Managerial Revolution), they are the 'vanguard of the future'". All of this Kerr

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held forth consciously as "the socialist view, for service to society which the administration and the trustees represent." This in noble contrast to "non-conformists" who wish to criticize or attack society, and to the parochial "guild view" of those faculty members who seek "self-determination." As a self-styled Captain of Bureaucracy himself, of course, it was easy for Kerr to adapt to this kind of "socialist" role.

For the university, Kerr wrote that:

> The campus and society are undergoing a somewhat reluctant and cautious merger, already well advanced. MIT is at least as much related to industry and government as Iowa State ever was to agriculture. . .
>
> The university is being called upon. . . to respond to the expanding claims of national service.

The university is to function as a knowledge factory processing the students who are its "raw material" into fit products to serve the various organs of state capitalism.

Particularly relevant to the student revolt was Clark Kerr's expressed attitude toward intellectuals, especially students. For above all, they are dangerous, precisely because they have no vested interests or life commitments and are therefore fully free to think:

> The intellectuals (including the university students) are a particularly volatile element. . . capable of extreme reactions to objective situations--more extreme than any group in society. They are by nature irresponsible, in the sense that they have no continuing commitment to any single institution or philosophical outlook and they are not fully answerable for consequences. They are, as a result, never fully trusted by anybody. . .

Hal Draper (another rare Old Leftist who has made the transition to the New), in his brilliant dissection of The Mind of Clark Kerr, at this point properly exploded in indignation:

> In all likelihood, dear reader, you did not read this carefully enough. Did you notice that the

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entire tradition of humanistic and democratic educational philosophy has been contemptuously tossed into the famous garbage can of history? It teaches 'irresponsibility'; you cannot trust people brought up that way. . . [9]

But, adds Kerr in the best Liberal fashion, intellectuals can also be a "tool" (revealing term) as well as a "danger"; after all, intellectuals are needed to service the State, to furnish technicians and strategic thinkers for the military, and to supply ideological weapons for fighting the Cold War. "Consequently," writes Kerr, "it is important who best attracts or captures the intellectuals and who uses them most effectively, for they may be a tool as well as a source of danger." And Draper aptly comments: "There are the alternative roles of the intellectual in the Kerrian world: tool or danger. It is a notorious dichotomy, celebrated in the literature of totalitarianism."

It was in this kind of a university and this kind of an ideological climate that the Berkeley rebellion took place, and the militant students were quite conscious of the nature of this confrontation. Thus, the following item appeared in No. 5 of the FSM (Free Speech Movement) Newsletter, for December 10, 1964:

> At the beginning, we did not realize the strength of the forces we were up against. We have learned that we must fight. . .the Board of Regents with their billions of dollars and Governor Brown with his army of cops.
>
> But neither did they realize the forces they were up against. At the beginning, they thought they had only to fight a hundred or so 'beatniks', 'Maoists', and 'Fidelistas'. But they put eight hundred of the 'hard core' in jail and found they still had to face thousands of other students and faculty members.
>
> The source of their power is clear enough: the guns and clubs of the Highway Patrol, the banks and corporations of the Regents. But what is the source of our power?

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9. Hal Draper, "The Mind of Clark Kerr", in Berkeley: The New Student Revolt (New York: Grove Press, 1965), p. 211.

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It is something we see everywhere on campus but find hard to define. Perhaps it was best expressed by the sign one boy pinned to his chest: 'I am a UC student. Please don't bend, fold, spindle or mutilate me.' The source of our strength is, very simply, the fact that we are human beings and so cannot forever be treated as raw materials--to be processed. Clark Kerr has declared, in his writings and by his conduct, that a university must be like any other factory--a place where workers who handle raw material are themselves handled like raw material by the administrators above them. Kerr is confident that in his utopia 'there will not be any revolt, anyway, except little bureaucratic revolts that can be handled piecemeal.'

As President of one of the greatest universities in the world, one which is considered to lie on the 'cutting edge of progress,' Kerr hopes to make UC a model to be proudly presented for the consideration of even higher authorities.

By our action, we have proved Kerr wrong in his claim that human beings can be handled like raw material without provoking revolt. We have smashed to bits his pretty little doll house. The next task will be to build a real house for real people.[10]

Or, as Mario Savio, the young student of philosophy who led the Berkeley revolt, has declared:

He (Clark Kerr) looks at a university this way. . . these are his metaphors, not mine. It's a factory and it has a manager. . . that's Kerr. . .and a Board of Directors. . . that's the Board of Regents. . .and employees, the faculty and teaching assistants, and raw materials. . .that's us. We've proven ourselves rather intractable raw material. . .

His view. . . is that we serve the national purpose by being 'a component part of the military-industrial complex'. Well, I haven't felt much of a component part and I think that has been

10. In Draper, op. cit. pp. 224-225.

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part of the problem. There is an incredible alienation on the campus, especially among the undergraduates. . .I think it is a scandal that such a person should be president of a university. . . any university. But, maybe the thing worst about the university is not that Kerr is president of it but that it's the kind of university that needs Kerr to run it. Because it is a factory to a large extent. . .

That is the issue. Arbitrary power, alienation, the managers and the managed. . .after a while the people get tired of being treated, you know, by managers, as managed. They want to be treated as human beings should be treated. . . Human beings are not things to be used. [11]

Savio has also written:

the schools have become training camps--and proving grounds--rather than places where people acquire education. They become factories to produce technicians rather than places to live student lives. And this perversion develops great resentment on the part of the students. Resentment against being subjected to standard production techniques of speedup and regimentation; against a tendency to quantify education--virtually a contradiction in terms. Education is measured in units, in numbers of lectures attended, in numbers of pages devoted to papers, number of pages read. . .

Those disciplines with a ready market in industry and government are favored and fostered: the natural sciences, engineering, mathematics, and the social sciences when these serve the braintrusting propaganda purposes of 'liberal' government. The humanities naturally suffer, so that what should be the substance of undergraduate education suffers. . .the undergraduate has become the new dispossessed: the heart has been taken from his education--no less so for science students--for the humanities are no longer accorded the central role they deserve in the university. . .

11. Mario Savio, "Berkeley Fall: The Berkeley Student Rebellion of 1964," in The Free Speech Movement and the Negro Revolution (Detroit: News and Letters, July, 1965), p. 19.

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> In a healthy university an undergraduate would have time to do 'nothing'. To read what he wants to read, maybe to sit on a hill behind the campus all alone or with a friend, to 'waste time' alone, dreaming in the Eucalyptus Grove. But the university, after the manner of a pesky social director, sees to it the student's time is kept filled with anti-intellectual harassment: those three credits in each three unit course, those meaningless units themselves. . .
>
> There are little attractions in various places, philosophy in one corner, physics in another, maybe a bit of mathematics every now and again, some political science--nothing bearing any relationship to anything else. Everything requires too many papers, too much attendance at lectures, two-thirds of which should never have been given.[12]

If any intellectual may be considered the "father" of the New Left, particularly in its educational philosophy, it is Paul Goodman, the self-professed anarchist whose brilliant essays have spoken directly to youth and to the necessity of drastic change in the educational system. Goodman's Community of Scholars was a fundamental attack on our deadening system of mass bureaucratic education and a call for a return to an informal, flexible, and genuine "community of scholars" between teachers and students; his Compulsory Mis-Education was a powerful plea for the elimination of compulsory attendance laws that act as a prison for uninterested youth yearning to be free and thus as a breeding-ground for juvenile delinquency; instead, young people should be allowed to "dropout" and work at jobs that truly interest them.

Goodman has written perceptively that the major exploited class in the United States is not the industrial workers but middle-class students, a class that is rapidly becoming the bulk of the youth. "The labor of intelligent youth is needed and they are accordingly subjected to tight scheduling, speed-up and other factory exploitative methods. Then it is not surprising if they organize their CIO."

Quoting this very passage from Goodman, the

12. Savio, loc. cit., pp. 17-18.

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Steering Committee of FSM, in a pamphlet entitled "We Want a University", went on to point out:

> Current federal and private support programs for the university have been compared to classic examples of imperialism and neocolonialism. The government has invested in underdeveloped, capital-starved institutions, and imposed a pattern of growth and development upon them which, if disrupted, would lead to economic breakdown and political chaos.
>
> Research and training replace scholarship and learning. In this system. . .the student is pressured to specialize or endure huge, impersonal lecture courses. He loses contact with his professors as they turn more to research and publishing, and away from teaching. His professors lose contact with one another as they serve a discipline and turn away from dialogue. Forms and structures stifle humane learning. . .
>
> We get a four-year-long series of sharp staccatos: eight semesters, forty courses, one hundred twenty or more 'units', ten to fifteen impersonal lectures per week, one to three oversized discussion meetings per week led by poorly paid graduate student 'teachers'. Over a period of four years, the student-cog receives close to forty bibliographies; evaluation amounts to little more than pushing the test button, which results in over one hundred regurgitations in four years; and the writing of twenty to thirty-five 'papers' in four years in this context means that they are of necessity technically and substantially poor due to a lack of time for thought. The course-grade-unit structure, resting on the foundation of departmentalization, produces knowledge for the student-cog which has been exploded into thousands of bits and is force-fed, by the coercion of grades. We all know what happens when we really get 'turned on' by a great idea, a great man, or a great book: we pursue that interest at the risk of flunking out. The pursuit of thought, a painful but highly exhilirating process, requires, above all, the element of time.
>
> . . .It is as though we have become raw material in the strictly inorganic sense. But the Free Speech

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Movement has given us an extraordinary taste of what it means to be part of something organic. Jumping off the conveyors, we have become a community of furiously talking, feeling, and thinking human beings.[13]

And a very strong Paul Goodman influence may be seen in an editorial of the first issue of the Free Student, the organ of M-2-M. Calling for a community of scholars of "free teachers and free students", the journal adds:

At a certain point it was considered a convenience to this community (of scholars) to employ janitors to look after such worldly but irrelevant problems as carting off the garbage. That historic decision heralds the birth of the University Administration. By the second half of the 20th Century the janitors, the expeditors, have set themselves up as high priests of wisdom. . .As for the students. . .we are numbers on an IBM card, enrollment statistics in the President's annual speech, grist, elements in a production line, 'privileged' to listen in on a dialogue in which 'our' teachers justify their wages to their immediate employers--the janitors of administration.

The community of scholars transmitting cultural heritage and intellectual development disappears before the demands of other 'communities'--'communities' with power, with money, groupings of men and institutions who control and direct America's vast Military and Corporate Complex and guide this country's fortunes into the cold and not-so-cold wars that justify the Complex. It is to this force that the janitors of administration owe their loyalty, and in the person of Berkeley's Clark Kerr, proclaim it proudly.

The University, then, is an 'institution' in the service of the Military-Corporate Complex. It recruits and trains scientists and technicians in the use of 'priority' technology -- i.e. missile systems, nuclear fission and bacteriological warfare.

13. Draper, op. cit., pp. 191-194.

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> And it is an institution of repression. Faculty members who pursue knowledge inconsistent with the care and training of the desired cold war mentality are driven from the campus. The student is subject to thousands of petty rules and regulations about where he should live, and with whom, what he should wear, what he should drink and where he should eat. Co-eds are usually introduced into a women's detention home with a system of penalties and penances. . .And all of this is done in the name of "in loco parentis". . . The assumption is naked; if the administration can act like parents, then we must act like children. And if we are dealt a 'conformity', without question, in dress, speech, in somebody else's official morals, the hope is that we will conform on a total level. For the ultimate effect of this total imposition, intuited by the Military-Corporate Complex that owns the University, is to emasculate the student body as an independent 'non-conformist' social and political factor in this country. For if we are not serious, not mature enough to be a personal force in our own lives, how can we be so 'presumptuous' as to dare put to use our accumulated knowledge, as students, to meaningfully change the international and domestic injustice of American life.[14]

The ideological ancestor to Paul Goodman and these individualistic students trenchantly and passionately rebelling against mass bureaucratic education was undoubtedly Albert Jay Nock--ironically enough a leading intellectual of the Old Right of over twenty years ago. The deep-seated fraud of the present-day Conservative Movement's still clinging to the term "libertarian" may be seen in a comment on Berkeley by the prominent conservative writer, Henry J. Taylor. Where does Taylor stand on individual freedom?:

> Delinquents? Why, certainly they're delinquents. Education is impossible without authority and the recognition of authority. Management has to manage. That this affects one's place in life--and

14. "Ideologue: Who Owns the University?", Free Student, Number 1, p. 3.

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throughout life--is elementary. If a university can't teach that to its students, it'll never be able to teach them anything.

Every institution--families, schools, enterprises, government, our armed forces, everything--falls apart on any other basis. And the future of American youth falls apart with it. . .

'I am youth. I am joy. I am freedom,' said Peter Pan. But a great storm cloud mounts and darkens throughout the world and its crimson rim reaches out to suck down the United States. We'd better produce something better than millions and millions of Peter Pans or impudent delinquents who succumb to the unlovely habit of telling, not asking.[15]

Ultimately, education in America is faced with the clear choice for virtual fascism (nakedly with the Taylors, more subtly with the Kerrs) or toward freedom and genuine learning, sought in their different ways in the past by Nock and Robert M. Hutchins and in the present-day by Paul Goodman and the student rebels.

The taunt "If you don't like it, why don't you leave?" has about the same moral and intellectual stature as the old "If you don't like it here, why don't you go to Russia?" But it is true that the more radical of the New Left have begun to despair of any reform of the swollen universities of the present-day, and have begun to opt out of the system to create parallel institutions, "Free Universities" of genuine communities of scholars. The teach-ins were such "universities", though of course very short-lived. At Berkeley, during the strike, students and faculty, especially graduate teaching assistants, came together in a "Free University" of teaching and learning. But this too was temporary. This summer, a group of young scholars established The Free University of New York to teach and discuss vital subjects that cannot be found in the established universities, and the group insists on making all decisions on the

15. Henry J. Taylor, "Peter Pans in Our Universities," New York World-Telegram and Sun, May 7, 1965.

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basis of democratic participation by the community of staff, students, and faculty. And in several cities, "Free Universities" are in the process of being established--indeed, parallel institutions confronting the Establishment.

What Vision of the Future?

In every field it has entered, then, the New Left has tried to combine construction (of parallel institutions) with its root-and-branch opposition to the Establishment; indeed, it has understood that genuine opposition requires such parallel construction. Thus, Staughton Lynd writes of a projected future strategy for the participatory democracy of the New Left:

> What is most clear at the moment is the call reminiscent of the Radical Reformation to 'come out of Babylon'. Let the teacher leave the university and teach in Freedom Schools; let the reporter quit his job on a metropolitan daily and start a community newspaper; generally, let the intellectual make insurgency a full-time rather than a part-time occupation. As the Russian radical movement grew from Tolstoyism and the Narodnik's concern to dress simply, speak truth, and 'go to the people', so participatory democracy at this point speaks most clearly to the middle-class man, daring him to forsake powerlessness and act.[16]

But Lynd stops short at the nature of the final vision of the ultimate society; for he falls prey, on the other side of the coin, to the illusion of Clark Kerr and others that participatory democracy cannot really run an economic system, that a modern industrial economy must be centralized, and therefore that decentralization and participatory democracy must be drastically limited by a centralized socialist planned economy. Here, the young philosopher John McDermott confronts his confreres of the New Left with a stark dilemma; for he points out that it is precisely Liberals and socialists that have played crucial roles in bring-

16. Staughton Lynd, "The New Radicals and 'Participatory Democracy," Dissent (Summer, 1965), pp. 328-329.

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ing our society to the parlous state against which the New Left is now in revolt. Sympathizing even with the Goldwaterite attack on our present trends toward centralization and the corporate state, McDermott points out:

> The fact is that liberal and socialist writers have taken ambiguous positions with respect to these trends. Centralization has been seen as reinforcing the rationality of planning against the blindness of the market; efficiency, progress, and science against waste, stagnation, and superstition. In particular, the growth of the Executive Department of the Federal government--in many ways the crown of the whole process--has been presented as the triumph of popular will over private industrial caprice. Such notions can be maintained, however, only by ignoring the evidence of Engler, Kolko, Nossiter and others that to the degree the Federal government assumes authority in economic matters, it becomes the willing partner of the economic interest involved. . . Nor does centralization create economic and social efficiency. . .
>
> Among the chief supports of these trends and their social consequences is the continuing acceptance on the part of social critics that they are in some sense inevitable. But if these trends no longer represent progress, if they daily grow more dangerous to the democratic fabric, and if they present lively possibilities of social chaos, then the way is cleared to examine seriously--and to reject--the claim that they are inevitable. Is the task of the progressive intellectual to extract democratic values out of increasingly hostile technological and social directions? Or should he instead work to devise political and economic institutions which will enhance freely chosen sets of values?[17]

If, then, we are to take the path of McDermott and reject centralized planning of the economy, how can participatory democracy be extended to run efficiently a modern industrial system? With his overriding com-

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17. John McDermott, "Does the Goldwater Movement Have a Future?" Dissent (Spring, 1965), p. 159.

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mitment to decentralization and his keen grasp of history, Paul Goodman in his latest book has almost found the answer: the free market. For Goodman hails the quasi-anarchistic development of the free market during the Enlightenment and under the Articles of Confederation, and, in a passage reminiscent of F. A. Hayek, hails the free market as the epitome of decentralized decision-making:

> Decentralization is not lack of order or planning, but a kind of coordination that relies on different motives from top-down direction, standard rules, and extrinsic rewards like salary and status, to provide integration and cohesiveness. . .
>
> As an example of decentralist coordination, the anarchist Prince Kropotkin, who was a geographer, used to point spectacularly to the history of Western science from the heroic age of Vesalius, Copernicus and Galilee to his own time of Pasteur, Kelvin, and J. J. Thomson. The progress of science in all fields was exquisitely coordinated. There were voluntary associations, publications, regional and international conferences. . . There was continual private correspondence, even across warring boundaries. Yet in vast common enterprise, so amazingly productive, there was no central direction whatever. . .
>
> Over the centuries, not only scientific truth but most other objective values, like beauty or compassion, have thrived by voluntary association and independent solitude. . . Almost by definition, the progress of social justice has been by voluntary association, since the central authority is what is rebelled against. . .
>
> But we must also remember that in its heyday. . . the free-enterprise system of partnerships and vigilant joint stockholders was in theory a model of decentralist coordination, as opposed to the centralized system of mercantilism, royal patents and monopolies that it replaced. It reposed an absolute reliance on self-interest, voluntary association, and the cohesive influence of natural forces: Economic Man and the Laws of the Market. Pretty soon, however, the stockholders stopped

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attending to business. . . And almost from the beginning in this country, notably in the bank and the tariff, there was a revival of state monopolies. . .

In the seventeenth and eighteenth centuries, the development of the Enlightenment and the Industrial Revolution was a swing to decentralization. This time, the voluntary associations were friend-groups, partnerships, and companies of individuals rather than corporate bodies. They banded together to enterprise in their own way, free of royal monopolies, mercantilist regulations, and the ossified relics of guilds, universities, and feudalism. Scientists and scholars tended to go it alone, by correspondence, and in independent academies. Stockholders in joint-stock companies were vigilant of management. And these groups federated across national boundaries for trade, science, technical innovation, and political action. Out of it came political economy and modern social theory, the first colonial revolutions, the Bill of Rights, the limitation of absolute power, the critical philosophy, the theory of perpetual peace--in brief, everything that we now think of as our best.[18]

Finally, few more trenchant appreciations of the free market or criticisms of state socialism have been made than by the Italian Marxist-humanist Bruno Rizzi. Of state socialism, Rizzi writes:

Statification of the great agricultural, industrial, commercial and service enterprises has created a State monopoly of the means of production, of transport, of "public" services, of distribution and of foreign trade which has eliminated the market. . .

But monopoly is the opposite of the market, and if oligopolitical monopoly is detestable, that of the State is unique in that it eliminates the market, the free interplay between supply and demand, and free competition among commodities. Competition is found only on the collective

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18. Paul Goodman, People Or Personnel (New York: Random House, 1965), pp. 6-9, 152.

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market, or on the black market which is the true market that hides since it is illegal.

> If it is established that there is a State monopoly. . . then it is clear consequently that labor is also monopolized for the workers are dependent upon only one employer--the State. In fact, it is the State which establishes norms and payment for labor according to its own decision. . . In capitalist society he (the worker) could choose between one entrepreneur and another; he has lost the right to choose, his labor is channelized by the only entrepreneur--the State.
> . . . In effect. . . the State does not buy labor power; by means of its authority, all of labor is seized, its purchase is abolished. It can therefore no longer permit a strike. The strike of serfs is rebellion.
>
> If the workers cannot enter into contracts for their labor with the social directors, they lose the right to cross their arms even if their directors are self-styled "Marxist-Leninists." . . . Thus, the principal social consequences of this economy is that the bond between the worker and the entrepreneur is no longer juridical, as in capitalist society, but a question of political power as in all feudal societies. [19]

In their concrete struggles against centralized oppression, the young militants of the New Left are moving, largely unwittingly but more consciously in the work of some of its advanced thinkers, toward a vision of the future that is the fullest possible extension of the ideals of freedom, independence, and participatory democracy: a free market in a free society.

19. Bruno Rizzi, in News & Letters (April, 1965), p. 7.

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On Conscription

by DANIEL WEBSTER

During America's first great war, waged against Great Britain, the Madison Administration tried to introduce a conscription bill into Congress. This bill called forth one of Daniel Webster's most eloquent efforts, in a powerful opposition to conscription. The speech was delivered in the House of Representatives on December 9, 1814; the following is a condensation.

●●●

This bill indeed is less undisguised in its object, and less direct in its means, than some of the measures proposed. It is an attempt to exercise the power of forcing the free men of this country into the ranks of an army, for the general purposes of war, under color of a military service. It is a distinct system, introduced for new purposes, and not connected with any power, which the Constitution has conferred on Congress.

But, Sir, there is another consideration. The services of the men to be raised under this act are not limited to those cases in which alone this Government is entitled to the aid of the militia of the States. These cases are particularly stated in the Constitution--"to repel invasion, suppress insurrection, or execute the laws."

The question is nothing less, than whether the most essential rights of personal liberty shall be surrender-

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ed, and despotism embraced in its worst form. When the present generation of men shall be swept away, and that this Government ever existed shall be a matter of history only, I desire that it may then be known, that you have not proceeded in your course unadmonished and unforewarned. Let it then be known, that there were those, who would have stopped you, in the career of your measures, and held you back, as by the skirts of your garments, from the precipice, over which you are plunging, and drawing after you the Government of your Country.

Conscription is chosen as the most promising instrument, both of overcoming reluctance to the Service, and of subduing the difficulties which arise from the deficiencies of the Exchequer. The administration asserts the right to fill the ranks of the regular army by compulsion. It contends that it may now take one out of every twenty-five men, and any part or the whole of the rest, whenever its occasions require. Persons thus taken by force, and put into an army, may be compelled to serve there, during the war, or for life. They may be put on any service, at home or abroad, for defence or for invasion, according to the will and pleasure of Government. This power does not grow out of any invasion of the country, or even out of a state of war. It belongs to Government at all times, in peace as well as in war, and is to be exercised under all circumstances, according to its mere discretion. This, Sir, is the amount of the principle contended for by the Secretary of War (James Monroe.)

Is this, Sir, consistent with the character of a free Government? Is this civil liberty? Is this the real character of our Constitution? No, Sir, indeed it is not. The Constitution is libelled, foully libelled. The people of this country have not established for themselves such a fabric of despotism. They have not purchased at a vast expense of their own treasure and their own blood a Magna Carta to be slaves. Where is it written in the Constitution, in what article or section is it contained, that you may take children from their parents, and parents from their children, and compel them to fight the battles of any war, in which the folly or the wickedness of Government may engage it? Under what conceal-

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ment has this power lain hidden, which now for the first time comes forth, with a tremendous and baleful aspect, to trample down and destroy the dearest rights of personal liberty? Sir, I almost disdain to go to quotations and references to prove that such an abominable doctrine has no foundation in the Constitution of the country. It is enough to know that that instrument was intended as the basis of a free Government, and that the power contended for is incompatible with any notion of personal liberty. An attempt to maintain this doctrine upon the provisions of the Constitution is an exercise of perverse ingenuity to extract slavery from the substance of a free Government. It is an attempt to show, by proof and argument, that we ourselves are subjects of despotism, and that we have a right to chains and bondage, firmly secured to us and our children, by the provisions of our Government.

The supporters of the measures before us act on the principle that it is their task to raise arbitrary powers, by construction, out of a plain written charter of National Liberty. It is their pleasing duty to free us of the delusion, which we have fondly cherished, that we are the subjects of a mild, free and limited Government, and to demonstrate by a regular chain of premises and conclusions, that Government possesses over us a power more tyrannical, more arbitrary, more dangerous, more allied to blood and murder, more full of every form of mischief, more productive of every sort and degree of misery, than has been exercised by any civilized Government in modern times.

But it is said, that it might happen that any army would not be raised by voluntary enlistment, in which case the power to raise armies would be granted in vain, unless they might be raised by compulsion. If this reasoning could prove any thing, it would equally show, that whenever the legitimate powers of the Constitution should be so badly administered as to cease to answer the great ends intended by them, such new powers may be assumed or usurped, as any existing administration may deem expedient. This is a result of his own reasoning, to which the Secretary does not profess to go. But it is a true result. For if it is to be assumed, that all powers were

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granted, which might by possibility become necessary, and that Government itself is the judge of this possible necessity, then the powers of Government are precisely what it chooses they should be.

The tyranny of Arbitrary Government consists as much in its means as in its end; and it would be a ridiculous and absurd constitution which should be less cautious to guard against abuses in the one case than in the other. All the means and instruments which a free Government exercises, as well as the ends and objects which it pursues, are to partake of its own essential character, and to be conformed to its genuine spirit. A free Government with arbitrary means to administer it is a contradiction; a free Government without adequate provision for personal security is an absurdity; a free Government, with an uncontrolled power of military conscription, is a solecism, at once the most ridiculous and abominable that ever entered into the head of man.

Into the paradise of domestic life you enter, not indeed by temptations and sorceries, but by open force and violence.

Nor is it, Sir, for the defense of his own house and home, that he who is the subject of military draft is to perform the task allotted to him. You will put him upon a service equally foreign to his interests and abhorrent to his feelings. With his aid you are to push your purposes of conquest. The battles which he is to fight are the battles of invasion; battles which he detests perhaps and abhors, less from the danger and the death that gather over them, and the blood with which they drench the plain, than from the principles in which they have their origin. If, Sir, in this strife he fall--if, while ready to obey every rightful command of Government, he is forced from home against right, not to contend for the defense of his country, but to prosecute a miserable and detestable project of invasion, and in that strife he fall, 'tis murder. It may stalk above the cognizance of human law, but in the sight of Heaven it is murder; and though millions of years may roll away, while his ashes and yours lie mingled together in the earth, the day will yet come, when his spirit and the spirits of his children must be met at the bar of

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ominipotent justice. May God, in his compassion, shield me from any participation in the enormity of this guilt.

A military force cannot be raised, in this manner, but by the means of a military force. If administration has found that it can not form an army without conscription, it will find, if it venture on these experiments, that it can not enforce conscription without an army. The Government was not constituted for such purposes. Framed in the spirit of liberty, and in the love of peace, it has no powers which render it able to enforce such laws. The attempt, if we rashly make it, will fail; and having already thrown away our peace, we may thereby throw away our Government.

I express these sentiments here, Sir, because I shall express them to my constituents. Both they and myself live under a Constitution which teaches us, that "the doctrine of non-resistance against arbitrary power and oppression, is absurd, slavish, and destructive of the good and happiness of mankind." With the same earnestness with which I now exhort you to forbear from these measures, I shall exhort them to exercise their unquestionable right of providing for the security of their own liberties.

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